

1 UNITED STATES BANKRUPTCY COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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5 In the Matter of:

6 SECURITIES INVESTOR PROTECTION  
7 CORPORATION,

8 Plaintiff,

9 v. Case No. 08-01789-smb

10 BERNARD L. MADOFF INVESTMENT

11 SECURITIES LLC,

12 Defendant.

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15 U.S. Bankruptcy Court  
16 One Bowling Green  
17 New York, New York 10004-1408  
18

19 January 19, 2018

20 10:01 AM

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23 B E F O R E :

24 HON STUART M. BERNSTEIN

25 U.S. BANKRUPTCY JUDGE

1       Hearing re:   Trial on Profit Withdrawal Issue

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24       Transcribed by:   Dawn South, Sherri Breach, Tracey Williams  
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1 P R O C E E D I N G S

2 THE COURT: Madoff?

3 MS. BROWN: Good morning, Your Honor. Seanna  
4 Brown on behalf of the trustee, Irving Picard. Today I have  
5 with me my colleagues Amy Vanderwal. And we also have  
6 Shannon Bails who's here to assist us with our exhibits.

7 Your Honor, we have a number of housekeeping  
8 matters to address, and we also have the motion to preclude  
9 Robert Blecker as a witness, and I would defer to the Court  
10 as to what order you'd like to address those items.

11 THE COURT: I'll deal with the motion in limine  
12 first.

13 MS. BROWN: Okay. My colleague, Kat Woltering, is  
14 actually going to argue the motion today.

15 THE COURT: Okay.

16 MS. BROWN: Thank you, Your Honor.

17 (Pause)

18 MS. WOLTERING: Good morning, Your Honor.  
19 Catherine Woltering on behalf of the trustee here to argue a  
20 motion in limine seeking to exclude the testimony of Robert  
21 Blecker.

22 As a preliminary matter I will be referring to  
23 both Aaron Blecker and his son, Robert Blecker, so I'll call  
24 Aaron Blecker Mr. Blecker and Robert Blecker by his full  
25 name.

1           The grounds for granting the trustee's motion in  
2     limine are simple. First, the burden to identify any  
3     witness falls onto the party offering the testimony, and  
4     Ms. Chaitman failed to identify Robert Blecker within the  
5     time frames provided by Rule 26 and Your Honor's scheduling  
6     orders.

7           THE COURT: But you've known for over a year that  
8     he might be a -- or almost a year that he might be a  
9     witness, right?

10          MS. WOLTERING: No, sir.

11          THE COURT: Or that he was going to be a witness.

12          MS. WOLTERING: No, sir. Your Honor, the trustee  
13     first learned that Robert Blecker may have knowledge after  
14     the close of discovery --

15          THE COURT: Right.

16          MS. WOLTERING: -- 11 months after the close of  
17     discovery and 6 months after final pretrial disclosures were  
18     due.

19          THE COURT: But we had a discussion on the record  
20     in April of 2017, and I think the substance of it was if he  
21     was going to be a witness Ms. Chaitman would tell you and  
22     then you could take his depositions if you wanted, right?

23          MS. WOLTERING: Your Honor, at that point in time  
24     Ms. Chaitman said on the record at the hearing that he might  
25     have personal knowledge, but she'd have to check.

1 THE COURT: But I thought she told you the next  
2 month that he did have -- that he was probably going to be a  
3 witness.

4 MS. WOLTERING: No, she offered to just give us  
5 his deposition in May --

6 THE COURT: Right.

7 MS. WOLTERING: -- and we responded and said, what  
8 personal knowledge does he have and is Aaron unavailable?  
9 Because he only came up at that hearing by virtue of her  
10 representing that Aaron might be unavailable.

11 THE COURT: Well wouldn't you have to take his  
12 deposition to find out what personal knowledge he had?

13 MS. WOLTERING: We're under no obligation to  
14 depose a party who may have personal knowledge after --

15 THE COURT: Well that's certainly true.

16 MS. WOLTERING: -- the close of discovery, after  
17 final prehearing disclosures that are due in violation of  
18 Rule 26.

19 Furthermore, Rule 26 is clear that any disclosure  
20 must be in writing, timely to the Court and opposing  
21 counsel, and must sufficiently identify whether that witness  
22 is being called as a witness during the affirmative case or  
23 maybe called later on rebuttal.

24 THE COURT: Well let me just stop you on that,  
25 because -- and I know we've discussed this in the past,

1 we're trying Mr. Blecker's claim also at the same time?

2 MS. CHAITMAN: The only claim that we're trying is  
3 Mr. Blecker.

4 THE COURT: Okay. All right.

5 MS. CHAITMAN: That's what you had ordered.

6 MS. WOLTERING: And, Your Honor, Mr. Blecker will  
7 be testifying here today, he just is doing so through  
8 deposition --

9 THE COURT: Right.

10 MS. WOLTERING: -- designations, which is what  
11 Ms. Chaitman has sought all along --

12 THE COURT: Okay.

13 MS. WOLTERING: -- and the only reason that Robert  
14 Blecker ever even became an issue was because the trustee  
15 was trying to get Ms. Chaitman to confirm whether or not  
16 Mr. Blecker would be available, and if not to get his trial  
17 deposition.

18 In lieu of those not going forward we never -- she  
19 never disclosed Robert Blecker during discovery, she  
20 didn't --

21 THE COURT: But she disclosed him in April and May  
22 of 2017 though. I don't understand your hypertechnical  
23 argument. It was disclosed and I said just give him an  
24 opportunity -- give the trustee an opportunity to take his  
25 deposition, right?

1 MS. WOLTERING: Your Honor, it's not the trustee's  
2 burden to -- she -- we asked her several times in response  
3 to that offer to provide us with some basis of what personal  
4 knowledge he had.

5 THE COURT: But where's that in a federal rules  
6 that somebody has to do that before you take their  
7 deposition or you have to take the deposition?

8 MS. WOLTERING: Your Honor, I agree with you if he  
9 was disclosed during the normal course of discovery. If  
10 what Ms. Chaitman says is true and she's known all along  
11 that he had personal knowledge he should have been disclosed  
12 during discovery.

13 THE COURT: Because she -- look, I don't want to  
14 go through this again. She disclosed it in April of 2017  
15 and confirmed it in May of 2017 didn't she?

16 MS. WOLTERING: She did not confirm that he had  
17 personal knowledge of anything relevant to this proceeding.

18 THE COURT: But she said he might be a witness or  
19 he was going to be a witness, right?

20 MS. WOLTERING: No, she just simply offered his  
21 deposition. She did not indicate --

22 THE COURT: No, no, this is Robert.

23 MS. WOLTERING: Yes. Robert Blecker, she  
24 indicated that his -- we could take his deposition but not  
25 that he would be a witness. The email reads:



1 "Amy, I have spoken to Robert Blecker and he has  
2 information relevant to his father's account. He will  
3 be available for deposition in June. Please give me  
4 some dates that are convenient for you so that I can  
5 check with him regarding his schedule."

6 THE COURT: Right.

7 MS. WOLTERING: At no point in time has  
8 Ms. Chaitman ever told us until late November or after you  
9 scheduled this hearing and we had a meet and confer that  
10 Robert Blecker was going to be called as a witness. Rather  
11 she said he has -- in April he may have personal knowledge,  
12 and in May --

13 THE COURT: Why don't you move on to your other  
14 arguments.

15 MS. WOLTERING: Yes, Your Honor.

16 Pursuant to this Court's order Rule 26 applies in  
17 this case. Ms. Chaitman did not identify Robert Blecker in  
18 her prehearing disclosures.

19 THE COURT: We just discussed that. What other  
20 arguments do you have? I understand your Federal Rule of  
21 Civil Procedure argument about disclosure.

22 MS. WOLTERING: Your Honor, as the Southern  
23 District has held a party's mere knowledge of the existence  
24 of a witness does not satisfy Rule 26 disclosure  
25 obligations, that obligation is only fulfilled if the

1 disclosing party informed opposing counsel that it might  
2 call the witness as an actual witness at trial. We did not  
3 even know Aaron Blecker was unavailable until December 8th  
4 when she finally produced a doctor's note.

5 THE COURT: He's 106 years old.

6 MS. WOLTERING: That doesn't mean that counsel  
7 doesn't have to comply with the rules. You asked her and  
8 she represented twice on the record at that hearing that she  
9 would produce a doctor's note. We did not get --

10 THE COURT: He may be unavailable or he may -- he  
11 may or may not be unavailable, that's a separate question  
12 from whether Robert Blecker can testify isn't it? If he's  
13 got personal knowledge of relevant information why shouldn't  
14 he testify?

15 MS. WOLTERING: Whatever information or knowledge  
16 he has is duplicative or accumulative --

17 THE COURT: How do we know what he has? You  
18 didn't take his deposition, don't -- why doesn't he just  
19 testify, we will find out if there's a foundation for what  
20 he's about to testify to?

21 MS. WOLTERING: Because, Your Honor, trustee's  
22 counsel has not been provided with the opportunity to  
23 conduct discovery.

24 THE COURT: You were offered the opportunity to  
25 take his deposition and you declined.

1 MS. WOLTERING: Discovery was closed, the trustee  
2 had no obligation to take --

3 THE COURT: You're right, you don't have to take  
4 anybody's deposition.

5 MS. WOLTERING: But we should not now be  
6 prejudiced because Ms. Chaitman decided to disclose a  
7 witness 11 months after the end of discovery. She could  
8 have moved to reopen discovery. She could have amended her  
9 pretrial --

10 THE COURT: Didn't I implicitly do that though at  
11 the April hearing?

12 MS. WOLTERING: Did she?

13 THE COURT: Didn't I implicitly do that when I  
14 said, you know, as long as you had the opportunity to take  
15 his deposition he can testimony.

16 MS. WOLTERING: But that came up only with respect  
17 to Aaron Blecker's handwriting, and then the discussion --  
18 so it came up twice during the deposition transcript -- or  
19 the hearing transcript. Once in connection with our offer  
20 to withdraw our motion in limine if Aaron Blecker confirmed  
21 it was his handwriting and she produced a doctor's note.  
22 And then more generally she said he may have information.  
23 Just because a party might have information relevant isn't  
24 sufficient to notify opposing counsel.

25 So in Fleming v. Verizon New York plaintiff

1 disclosed two witnesses names after deposition, but absent  
2 the disclosure of the declarant's identities under Rule  
3 26(a) it would be unreasonable to expect defendant to depose  
4 them.

5 If he had personal knowledge then she should have  
6 disclosed that during discovery. The fact that we only  
7 found out he had personal knowledge 11 months after the  
8 close of discovery. And Rule 26 is clear, it has to be in  
9 writing that you plan to call him as a witness, you must  
10 differentiate between affirmative witnesses and witnesses  
11 you may need to call -- you may call if the need arises, and  
12 it must be timely, prompt.

13 What Ms. Chaitman did, she wasn't prompt, it  
14 wasn't in writing to both opposing counsel and the Court, it  
15 didn't identify or differentiate whether he was going to be  
16 an affirmative witness or he might be called if the need  
17 arises. She did not comply with a single element of Rule  
18 26. Absent that the Second Circuit has held that there's no  
19 greater harm to a party here, the trustee, then to be  
20 confronted with a witness who opposing counsel failed to  
21 identify during discovery. This is intended to eliminate  
22 gamesmanship and surprise and is the entire purpose of Rule  
23 26.

24 Even in her motion in opposition to our motion in  
25 limine Ms. Chaitman does not identify whether Robert Blecker

1 is being called as an affirmative witness or on rebuttal,  
2 nor does she provide in that opposition or at any point in  
3 time has she provided any information suggesting what  
4 knowledge Robert Blecker has or why he is relevant to this  
5 proceeding. Aaron Blecker will be testifying today by  
6 virtue of his deposition.

7 Under Rule 37 it's clear, if a party fails to  
8 disclose a witness under Rule 26 that testimony should be  
9 excluded unless it's substantially justified or harmless.  
10 Here it is neither substantially justified or harmless.  
11 She's provided no reason for why if she's saying that in  
12 2009 we should have known, the trustee, that Robert Blecker  
13 had personal knowledge then she should have disclosed that  
14 to us during discovery. And if she's saying we should have  
15 known by virtue of the fact that he attended his father's  
16 deposition that's a very thin argument.

17 It's unsurprising that somebody would attend their  
18 father's deposition. That alone is not sufficient to  
19 disclose that he had personal knowledge.

20 If Ms. Chaitman knew that Aaron Blecker was  
21 unavailable or that Robert Blecker had information it's her  
22 job to identify witnesses she needs.

23 THE COURT: I got it. Let me hear from  
24 Ms. Chaitman. Thank you. Go ahead.

25 MS. CHAITMAN: Judge, I have to confess I've never

1 in my experience heard such kind of absurd gamesmanship.

2 As you will recall, Your Honor, Mr. Blecker, at  
3 the age of 104 appeared for his deposition, the trustee  
4 questioned him on a very limited basis, the trustee then  
5 wrote to me saying they'd like to continue his deposition,  
6 and I said, of course, what date would you like to do it,  
7 even though I could have argued that they had their  
8 opportunity, we set a date and then Baker wrote to me and  
9 said they decided not to depose him. Now he's 106 years  
10 old, he is not able to testify.

11 THE COURT: Well also they -- then they did want  
12 to depose him and I denied that application.

13 MS. CHAITMAN: Yes, that's correct, you did deny  
14 it. And then --

15 THE COURT: Well let's get to Robert though,  
16 that's -- the motion is about Robert.

17 MS. CHAITMAN: Right. So as to Robert Mr. Blecker  
18 filed three SIPA claims. With respect to each of them there  
19 was a question in the trustee's form which said, "Has anyone  
20 assisted you in the preparation of this claim?? And in all  
21 three claims Mr. Blecker wrote, "My son, Robert Blecker,  
22 assisted me."

23 And when we had the April conference I disclosed  
24 to you that Mr. Blecker was not in condition to testify, we  
25 can't put him through that, I think I said I will not be

1 responsible for risking his life. We provided a letter from  
2 the doctor. I didn't provide it six months ago because I  
3 wanted it to be relevant to his health at the time of the  
4 year. So I provided it to Baker recently, and Mr. Blecker  
5 is here, you can hear his testimony. If you feel that he  
6 doesn't have personal knowledge or it's a waste of Your  
7 Honor's time you'll say so. But to exclude his testimony I  
8 don't think there's any basis for it.

9 And for the trustee -- when we had the discussion  
10 in April of 2017 about Robert Blecker testifying I promptly  
11 offered the trustee the opportunity to take his deposition.  
12 They thought out a pattern here, they don't want to know the  
13 truth.

14 THE COURT: All right. Let's just leave it at you  
15 offered the deposition and they -- look, I'm going to deny  
16 the motion.

17 The question of Robert Blecker's possible  
18 knowledge came up in April of 2017, had a conference, I  
19 indicated that if he was going to be called the trustee  
20 should have an opportunity to take the deposition. In an  
21 email dated May 8th Ms. Chaitman confirmed that he has  
22 relevant information to the father's account and made him  
23 available and the trustee declined. So that takes care of  
24 the procedural argument, whether or not he has personal  
25 knowledge we'll find out when he testifies.

1           So I will deny that motion. You can submit an  
2           order on that one when you get a chance.

3           Next. I've reviewed -- let me go through the  
4           objections to the depositions, because I've gone through  
5           those.

6           First with respect to Ms. Bongiorno deposition,  
7           the trustee objected -- let me just find the order.

8           (Pause)

9           THE COURT: The trustee initially objected to the  
10          introduction of testimony at page 205, lines 2 to 12, page  
11          205, line 15, and page 207 -- to 207, line 8. Those  
12          objections are sustained.

13          The question yet concerned to whether or not they  
14          were actual trades that ceded the scope of the PW discovery,  
15          it's more relevant to the other discovery relating when the  
16          Ponzi scheme began and whether or not there were actual  
17          trades during those periods.

18          I'm not saying it's admissible in that proceeding  
19          because that deposition was not taken in that proceeding and  
20          there were other parties in interest, but it's sustained.

21          Let me see. It also deals with questions  
22          regarding when the fraud began, which is again not relevant  
23          to the PW proceeding -- or to the discovery that was  
24          permitted.

25          There's also an objection to the deposition at



1 page 254, line 22 to 256, 01. These questions relate to  
2 Sage and their loan positions, they don't appear to have  
3 anything to do with PW, so that's sustained.

4 Turning to Mr. Madoff's deposition. First  
5 objection is to pages 43, line 7 to 44, line 14.

6 The first reference -- those pages relate to  
7 actual trading again for the same reason they exceed the  
8 scope of the PW discovery. And that objection is sustained.

9 Next is page 45, line 5 to page 46, line 25. That  
10 concerns executing actual transactions. That objection is  
11 sustained.

12 And page 62, line 12 to page 64, line 15. Again,  
13 those are questions regarding actual trading. Those  
14 objections are sustained.

15 Now, you can call your first witness. Or you said  
16 there were other housekeeping that you had.

17 MS. BROWN: Yeah, I just do have a couple other  
18 items just to cover very quickly.

19 The first I wanted to cover is just to clarify  
20 who's participating in this proceeding. We filed a notice  
21 of hearing on January 8th, that notice had two exhibits.  
22 The first exhibit was the original list of participating  
23 claimants. The Exhibit B was the current list of  
24 participating claimants.

25 THE COURT: Oh, okay.

1 MS. BROWN: And if I may just run through the  
2 changes.

3 As Your Honor is aware the Brums have settled.  
4 The Sages have confirmed that they're not participating in  
5 this proceeding.

6 THE COURT: Let me just ask --

7 MS. BROWN: Sure.

8 THE COURT: -- since it's Ms. Chaitman's  
9 clients --

10 MS. BROWN: Of course.

11 THE COURT: -- as I understand, not only  
12 Ms. Chaitman's clients. Ms. Chaitman, you've looked at the  
13 I guess what's Exhibit B to the trustee's notice of  
14 evidentiary hearing? The question is whether those are the  
15 only people who are participating in this proceeding.

16 MS. CHAITMAN: I just want to check the copy. I  
17 did discuss this with Ms. Brown.

18 THE COURT: All right.

19 (Pause)

20 MS. CHAITMAN: Yeah, the Shapiro -- right. Okay.  
21 Where it's indicated that it's any client, Your Honor, the  
22 list is accurate.

23 THE COURT: Okay. And with respect to non-  
24 Chaitman clients --

25 MS. BROWN: Yes, Your Honor.

1 THE COURT: -- are those -- those are people who  
2 have settled?

3 MS. BROWN: They've either settled, so that would  
4 cover the Blums and Doris Pearlman.

5 THE COURT: Right.

6 MS. BROWN: There were two -- there were several  
7 people that Ms. Chaitman indicated that she could not -- or  
8 that she no longer represented. The Shulmans, we did reach  
9 out to counsel for the Shulmans, they did not get back to  
10 us, just to inform them of the proceeding. We also spoke  
11 with counsel -- or --

12 THE COURT: So why aren't they deemed to still be  
13 participating even if Ms. Chaitman doesn't represent them?

14 MS. BROWN: Your Honor, we've provided them with  
15 -- I didn't want to exclude them because I didn't hear back  
16 from them. Ms. Chaitman opted in on their behalf, she says  
17 she no longer represents them.

18 THE COURT: Okay. But so they're in until they're  
19 out.

20 MS. BROWN: I suppose.

21 THE COURT: They don't lose their participatory  
22 right.

23 MS. BROWN: No, they're still participating --

24 THE COURT: Okay.

25 MS. BROWN: -- according to the exhibit, I'm just

1 trying to clarify what conversations we've had.

2 For the Shapiro accounts I spoke with an attorney  
3 named Brendan Scott. He wanted me to make a statement on  
4 the record that he is not counsel of record because there is  
5 no probate proceeding for David Shapiro.

6 THE COURT: Okay.

7 MS. BROWN: But he said that he did speak with  
8 Ms. Shapiro and that she, based on the preservation of  
9 rights in the adversary proceedings, that she's not going to  
10 pursue any arguments at this time here today, but she could  
11 remain in the proceeding for what it's worth.

12 THE COURT: Well I guess it really -- you know,  
13 this is going to bind everybody, people have an opportunity  
14 to opt in --

15 MS. BROWN: It is.

16 THE COURT: -- so --

17 MS. BROWN: Okay.

18 THE COURT: -- it doesn't matter I guess.

19 MS. BROWN: Okay. And I do want to note as well,  
20 Your Honor, that in January 2016 Ms. Chaitman voluntarily  
21 removed two of her clients, Ben Heller and Barbara Engel  
22 because she said that they received proper withdrawal  
23 transactions.

24 THE COURT: Is that correct, Ms. Chaitman?

25 MS. CHAITMAN: Yes, it is, correct, Your Honor.

1 THE COURT: Okay.

2 MS. BROWN: Your Honor, the other housekeeping  
3 matter I have is before we call our witnesses, if I may, I'd  
4 like to make a proposal for dealing with the admissibility  
5 of certain documents the trustee plans to introduce at  
6 today's hearing.

7 We've made every effort to streamline this hearing  
8 so that it could be completed by the end of the day. We  
9 anticipate that our direct examinations of our experts will  
10 take about an hour to an hour and a half each.

11 And so what we would proposal is that Your Honor  
12 hear all of the testimony today and at the end of the  
13 hearing the trustee can move the particular pieces of  
14 evidence and particular documents that he's discussed here  
15 today into evidence, and at that time Your Honor can address  
16 any objections and argument about that.

17 THE COURT: Are you going to question the  
18 witnesses about the contents of the documents?

19 MS. BROWN: We are going to mark it for  
20 identification and have them describe their work and their  
21 analysis of those documents, but the reason why --

22 THE COURT: So don't they have to be in evidence  
23 to talk about them? That's my question.

24 MS. BROWN: Your Honor, no. The Federal Law 1-703  
25 says that the experts can reply upon inadmissible documents,

1 they also can present their findings. They don't have to  
2 disclose the facts and data that they relied on up front,  
3 they can talk about them in any order. So I think that the  
4 documents can be discussed here today regardless of whether  
5 or not they're ultimately admitted into evidence.

6 And one of the reasons that I would like to  
7 propose dealing with the evidentiary objections at the end  
8 is most of our documents, the vast majority of them, fall  
9 into very discrete categories, and the arguments about  
10 admissibility really go to the category of documents rather  
11 than any particular document.

12 So to the extent that there were additional  
13 arguments that counsel wanted to raise Your Honor has the  
14 extensive motion in limine briefings that raises all of  
15 those evidentiary arguments.

16 So in order to keep the hearing moving that's our  
17 proposal, and we defer to Your Honor as to how you'd like to  
18 do it.

19 THE COURT: Any objection to that proposal?

20 MS. CHAITMAN: I don't, Your Honor. As you  
21 know --

22 THE COURT: You do or you don't?

23 MS. CHAITMAN: I'd like to say one thing. We've  
24 moved -- we believe that all of Madoff's internal records  
25 are not business records and they're not admissible, and

1 we've briefed that issue.

2 THE COURT: But doesn't the trustee have to  
3 determine at least for purposes of net equity, which is what  
4 we're talking about here, the customer's net equity based on  
5 the books and records?

6 MS. CHAITMAN: Yes and no, Your Honor. I mean the  
7 trustee was the one whose expert, Mr. Dubinsky (ph), said  
8 that the -- that Madoff's records are permeated with fraud,  
9 and as you will hear from my cross-examination of the expert  
10 witnesses you will hear that there are massive  
11 inconsistencies in Madoff's records, and you'll hear that --

12 THE COURT: So why wouldn't that go to the weight  
13 as opposed to the admissibility? In other words, I mean any  
14 forensic accountant is really dealing with hearsay records.

15 MS. CHAITMAN: If you're dealing with a business  
16 which is a legitimate business then it's more reasonable for  
17 an expert to rely upon it.

18 THE COURT: Uh-huh.

19 MS. CHAITMAN: But I think when you hear -- I  
20 don't know that we have to take the time now because --

21 THE COURT: All right.

22 MS. CHAITMAN: -- this is part of my argument. So  
23 I won't -- as documents are being discussed I'm not going to  
24 make a hearsay objection, but I want you to know that I'd  
25 like to object to all of the Madoff records.

1 THE COURT: Well an expert can rely on anything  
2 that a reasonable expert could rely on, and if the record is  
3 coming in for that purpose it doesn't mean that they  
4 necessarily come in for the proof of the contents of the  
5 records.

6 MS. CHAITMAN: Right.

7 THE COURT: So there's a distinction.

8 MS. CHAITMAN: Well we've also moved to strike the  
9 expert reports, and that's sub judice. I mean you're  
10 allowing the experts to testimony but you --

11 THE COURT: Do you have a motion to strike the  
12 experts' reports?

13 MS. CHAITMAN: Yeah, the --

14 THE COURT: Are you aware of that?

15 MS. CHAITMAN: Because the --

16 THE COURT: I'm not aware of that.

17 MS. CHAITMAN: Yeah, because --

18 THE COURT: Is there a pending motion?

19 MS. BROWN: It was part of the motions in limine,  
20 and I believe Your Honor resolved it at the hearing by  
21 ruling that the experts may testify here today.

22 MS. CHAITMAN: And then you would determine.

23 THE COURT: The expert reports or expert  
24 testimony? Because the expert reports may be hearsay, but  
25 the expert testimony, why can't I hear that?



1 MS. CHAITMAN: It's the same argument, Your Honor,  
2 and we can --

3 MS. BROWN: Your Honor, we're not moving the  
4 expert reports into evidence for today.

5 THE COURT: Okay. I got it.

6 MS. CHAITMAN: Okay. Thank you.

7 THE COURT: Call your first witness.

8 MS. BROWN: Okay. Your Honor, the trustee will  
9 call Lisa Collura to the stand.

10 MS. CHAITMAN: Excuse me, we had -- Ms. Brown and  
11 I had discussed this and we had agreed that Robert Blecker  
12 would be called first. In fact --

13 MS. BROWN: I hadn't heard back from you as to  
14 whether or not he would -- what the order was.

15 MS. CHAITMAN: Oh, you know what, Mr. Blecker is  
16 here and he's arranged his schedule to be here, and if you'd  
17 be good enough to accommodate him.

18 THE COURT: I'm not going to have the -- require  
19 the trustee to call -- you know, present the case out of  
20 order. It doesn't sound like it's going to be that long and  
21 we'll probably get to him today.

22 MS. CHAITMAN: But we had specifically discussed  
23 this.

24 THE COURT: Well if she consents that's fine.

25 MS. BROWN: Can I have a minute?

1 THE COURT: Sure.

2 MS. BROWN: Your Honor, as accommodation to the  
3 witness and to Ms. Chaitman we will allow --

4 THE COURT: Okay.

5 MS. BROWN: -- her to proceed with Robert  
6 Blecker's examination.

7 THE COURT: All right. Mr. Blecker? Would you  
8 raise your right hand, please.

9 ROBERT BLECKER, WITNESS, SWORN

10 THE COURT: Okay. Please take a seat and speak  
11 into the microphone. You can move it closer.

12 THE WITNESS: Yes, Your Honor.

13 DIRECT EXAMINATION

14 BY MS. CHAITMAN:

15 Q Good morning, Mr. Blecker.

16 THE COURT: And I'll ask you to keep your voice  
17 up, Ms. Chaitman.

18 THE WITNESS: Good morning.

19 MS. CHAITMAN: Okay. Sure.

20 THE COURT: You can use the podium I'll probably  
21 hear you better.

22 MS. CHAITMAN: Is it better from the --

23 THE COURT: Yeah, I think so.

24 MS. CHAITMAN: Okay.

25 BY MS. CHAITMAN:

1 Q Can you tell the Court what you do for a living?

2 A Yes. I'm a law professor.

3 Q Where?

4 A At New York Law School.

5 Q And what is the area in which you teach?

6 A I primarily teach criminal law and also constitutional  
7 history. I also teach an Eighth Amendment course on  
8 punishment. And have in the past taught legal ethics.

9 Q Okay. Can you briefly give the Court your education  
10 background?

11 A I was an undergraduate at Tufts University, I went to  
12 Harvard Law School, and after a year in the academy I  
13 returned to Harvard as a post-graduate fellow in law and  
14 humanities.

15 Q Okay. And what did you do professionally after that?

16 A Upon graduation from law school I became a special  
17 assistance attorney general of New York prosecuting corrupt  
18 public officials in the New York City criminal justice  
19 system.

20 Q Okay. And after that what did you do?

21 A I became a law professor.

22 Q Okay. Have you published any articles or books?

23 A Yes, I have. There's a crime and punishment memoir  
24 called The Death of Punishment that I wrote. I've written  
25 dozens, perhaps hundreds, of shorter -- no, not hundreds --

1 dozens of shorter essays and opinion pieces as recently as  
2 yesterday.

3 Q Okay. Now, are you the son of Aaron or Arthur Blecker?

4 A Oh, yes I am.

5 Q Okay. Would you consider yourself to be a  
6 disinterested witness today?

7 A No, I'm not at all a disinterested witness. I'm just  
8 the opposite, I'm a very interested witness. I'm an  
9 interested witness emotionally. It's extremely important to  
10 me that my father be vindicated. This has become a central  
11 point of concern and angst and anxiety in our family and  
12 with him.

13 And then contingently I mean I hope he lives long  
14 enough to spend the money that he deserves and hopefully  
15 will get, but if he doesn't my sister and I are -- will  
16 inherent the estate and we'll split it. So I guess  
17 contingently I have a financial stake in the success, but  
18 even more primarily I have an emotional stake in the  
19 success.

20 So no, I'm the antithesis of a disinterested witness.

21 Q And do you fear -- the fact that you are not a  
22 disinterested witness will impact the truthfulness of your  
23 testimony?

24 A No, not at all. I just swore to tell the truth. I  
25 teach perjury in criminal law. I've published three

1 articles on the nature of truth and the importance to go  
2 beyond the limited United States Supreme Court standard in  
3 Bronston (ph), which came out of a bankruptcy proceeding,  
4 which held that you don't commit perjury as long as you tell  
5 the literal truth no matter how deceptive and how misleading  
6 it is. And I'm in print saying that that's the wrong  
7 standard, that the standard should be much broader. That  
8 any intentional deceptive statement should constitute  
9 perjury. And it's a little late in the game, I turn 70 this  
10 month to start committing it myself.

11 So I take the oath very seriously, I teach it as part  
12 of the fundamental course in criminal law that I teach, and  
13 also constitutional history.

14 So I'm not at all concerned that though I am an  
15 interested witness and I'm the antithesis of a disinterested  
16 witness I am still not only capable but deeply committed to  
17 telling the truth and not just the literal truth in order to  
18 deceive, but truth that's true in context and puts the  
19 listener in working touch with reality.

20 Q Did there come a time when you became aware that your  
21 father invested through Madoff?

22 A Yeah, sure.

23 Q Do you have a recollection of when that was?

24 A I can't tell you the exact date. It was decades and  
25 decades ago. It was within the first few years or couple of

1 years that he did. I don't know that I knew it at the  
2 moment that he initially invested, but I knew it soon  
3 thereafter within a few years. But I can't tell you, you  
4 know, as we get old and months become years or years become  
5 decades.

6 Q Okay. When you learned that your father had invested  
7 in Madoff what did he tell you about the investment?

8 A That he had been privileged to be able to do this.  
9 That it was a wonderful investment. That its returns were  
10 high and that its risk was very low. And he was connected  
11 with -- through friendship with remote members of family and  
12 that they had said that this was a wonderful thing to do and  
13 they had allowed him to come in, and if I remember  
14 correctly, at a level -- financial level beneath which they  
15 were generally accepting clients. So he was very pleased  
16 and he was very pleased at the returns.

17 Q Do you know when he first invested with Madoff?

18 THE COURT: I thought he said he knew generally  
19 but he didn't know the specific date.

20 THE WITNESS: Well I know now based on the  
21 trustee's records that it's 1981, but I can't tell you of my  
22 own direct recollection that it was 1981. I do not -- I  
23 don't know that it was 1981. But the records say it was and  
24 I have no reason -- it's consistent with the basic period of  
25 time at which I became aware of it.

1 BY MS. CHAITMAN:

2 Q Okay. So in 1981 how old were you?

3 A Thirty-three.

4 Q And how old was your father?

5 A Sixty-nine.

6 Q Okay. And how close were you to your father at that  
7 point in your life?

8 A I was and am extremely close. I love him and respect  
9 him enormously above all other men.

10 Q And do you live in proximity to his house?

11 A I do. I live about 15 to 20 minutes away from him.

12 Q Okay.

13 A And visit him frequently.

14 Q Okay. Now, what was your father's profession?

15 A A certified public accountant.

16 Q Okay. And is it fair to say that he was successful?

17 A Yes, he grew up in poverty and without any connections  
18 or help, just worked his way up and out of the slums and  
19 became middle class, upper middle class practice -- with a  
20 good practice, sole practitioner. But yes, successful and  
21 ethical, and that was part of his success and his sense of  
22 his own success.

23 Q Now, in 1981 he was 69 and that was the year you now  
24 know that he opened his Madoff account. Was he --

25 A Wait a minute, I'm sorry. That's right, because he was

1 born in 1911 so in 1981, he turned 70 in July of '81.

2 Q Okay. So would you say that he -- at the age of 69  
3 that he was functioning mentally as well as he had been?

4 A Oh, yes.

5 Q Okay. So there was no deterioration in his --

6 A Oh, absolutely not.

7 Q Okay.

8 A Sharp as a tack.

9 Q Okay. And if I take that forward from 1981 when he was  
10 69, 10 years to 1991 when he was 79, how would you describe  
11 his mental capacity?

12 A Still perfectly sharp.

13 Q No deterioration?

14 A No.

15 Q Okay. And if I take it forward another 10 years to  
16 2001 what was his mental condition?

17 A Extraordinarily sharp for that age.

18 Q But there was some deterioration?

19 A If he ever reads this transcript. I don't even know if  
20 there was. I don't even know -- it's still remarkable given  
21 his age, but he's not what he once was. So I can't tell you  
22 exactly the small and slight decline and when it happened.

23 Q Okay.

24 A Or has -- or is happening.

25 Q Now, did you ever observe your father reviewing



1 statements he received from Madoff?

2 A Yes.

3 Q And did he -- is it fair to say that he reviewed them  
4 very carefully?

5 A His care was extraordinary and in some ways  
6 frustrating.

7 Q I'm sorry, what was that?

8 A In some ways it was frustrating because he expected me  
9 -- I eventually and got my daughter into Madoff, that's  
10 another reason I'm not a disinterested witness because I too  
11 was a Madoff victim. But he expected of me the same care  
12 which I couldn't give, I wasn't capable of reviewing the  
13 statements, and yes, he was extraordinarily detailed and is  
14 extraordinarily detailed oriented, I'm not.

15 Q Okay. Now, when did he stop practicing as an  
16 accountant?

17 A That's difficult to answer. When he turned 70 my  
18 mother insisted that he take on no new accounts, and so from  
19 that point on he took on no new accounts, kept his promise  
20 and his practice dwindled. So there's no clear demarcation  
21 as to when he stopped practicing.

22 Q Okay. As your father got older did you assist him in  
23 any way?

24 A You don't mean physically, you mean --

25 Q No, for example, if he -- did he drive a car?

1 A No, my father never had a driver's license. He never  
2 drove.

3 THE COURT: Can I ask you a question? When was  
4 the last PW transaction in Mr. Blecker's account?

5 MS. CHAITMAN: Aaron Blecker's account?

6 THE COURT: Yeah.

7 MS. CHAITMAN: 1997.

8 THE COURT: '97.

9 MS. CHAITMAN: Yes.

10 THE COURT: Okay. So maybe we could confine  
11 ourselves to the issues in the case.

12 MS. CHAITMAN: Okay.

13 BY MS. CHAITMAN:

14 Q Did you ever drive your father into town for errands?

15 A Yes.

16 Q Okay. And did you ever take him to a bank?

17 A Yes, I did.

18 Q Okay. And did you ever observe that your father was  
19 depositing checks received from Madoff?

20 A No, I didn't specifically observe that he ever  
21 deposited checks. I mean to be fair I wouldn't have  
22 necessarily examined the checks to see what checks he was  
23 depositing.

24 Q Okay.

25 A So no, I never saw checks he deposited from Madoff, but

1 that really doesn't show much.

2 Q Okay. Because you didn't review the checks he may have  
3 deposited?

4 A No. No, I would just drive him there, occasionally  
5 accompany him to the bank as he got elderly, but not  
6 supervise what checks he was depositing. He handled his own  
7 financial matters.

8 Q Okay. And you recall, do you not, that when the  
9 trustee served discovery demands on me I was in touch with  
10 you and asked you to assist me in gathering all of your  
11 father's documents?

12 A I remember that well, yes.

13 Q Okay.

14 A We spent hours doing it.

15 Q I'm sorry?

16 A I spent hours doing it in the garage going through  
17 cartons, moldy cartons where there were Madoff papers.

18 Q Okay. And in the course of doing that did you find any  
19 check vouchers -- you took out money from Madoff didn't you?

20 A Yes, we did, that's why we're not Madoff claimants, we  
21 did.

22 Q Okay.

23 A That was a point of contention with my father who said  
24 don't take anything out, I never have and you shouldn't  
25 either, and that was one of the very few fights he and I

1 ever had. But yes, I didn't listen to him, we needed the  
2 money, and I did not follow his advice and I took out money.

3 Q Okay.

4 A And my daughter's account also.

5 Q Okay. Do you remember that the checks for Madoff were  
6 a piece of paper with a serrated edge, the bottom half was  
7 the check and the top half was the kind of voucher for the  
8 check?

9 MS. WOLTERING: Objection, Your Honor.

10 THE COURT: Sustained. It's a leading question.

11 BY MS. CHAITMAN:

12 Q In the course of your searching through your father's  
13 records did you find any documents evidencing that your  
14 father had received a check?

15 A No. Nor may I add in his search, because the search  
16 took two parts. He searched his file cabinet in the study  
17 for all documents pertaining as I gathered them at your  
18 request. He searched his file cabinets and gave me all the  
19 documents he had from Madoff. I then went into the garage,  
20 most of the older documents that you have I found in  
21 cartons. I guess all the older documents that you have I  
22 found in cartons. But on more than one occasion I asked  
23 him, have you given me everything that you have, because you  
24 told me that we had to turn over everything that we had, and  
25 I assiduously searched the cartons and spent hours and hours

1 and hours.

2 So I did not find any checks and he did not -- or any  
3 evidence of any checks, and he never turned over anything to  
4 me showing any evidence of any checks. And of course  
5 insisted that there wouldn't be any because that was the  
6 point, he -- his standard statement was, I've never  
7 withdrawn from Madoff, you shouldn't either. That's what  
8 occasioned that fight when we needed money for an apartment  
9 I think for my daughter and we withdraw it.

10 Q Do you recall that the trustee took the deposition of  
11 your father?

12 A Yes, I do.

13 Q Okay. And you attended that deposition didn't you?

14 A I did.

15 Q And what was the reason that you attend the deposition?

16 A To make sure it went smoothly. I wanted to make sure  
17 my father didn't, as he occasionally does, misstate  
18 something that's not -- he's a brilliant man, graduated  
19 first in his class in the City -- but I wanted to make sure  
20 that it came out the way he meant it and that he didn't get  
21 agitated. He was in his late 90's at this point as I  
22 recall.

23 Q Well it was 2004, so no, he was --

24 A Oh, no he was --

25 Q -- 104.

1 A He was 104, I'm sorry.

2 Q He was a mere child.

3 A A mere child, right. So obviously I wanted to make --  
4 I mean I was concerned, I wanted to make things -- make sure  
5 that things went smoothly and that he could be understood.  
6 Sometimes he garbles a little, I understand him better than  
7 anyone else, and that things were okay. I mean obviously I  
8 love him and I'm concerned about his health. So yes, I  
9 attended it.

10 Q And at his deposition did he testify that he never took  
11 any withdrawals from Madoff?

12 A Yes, that's --

13 MS. WOLTERING: Objection, Your Honor.

14 THE COURT: Sustained.

15 BY MS. CHAITMAN:

16 Q Did you assist in preparing your father's SIPA claims?

17 A Yes, I did. We prepared them together. I helped  
18 supply some of the wording, I typed the document, and of  
19 course I said on it that I had -- as I'm required to do --  
20 that I had helped him prepare it. But it was jointly  
21 prepared. It wasn't just I handed him to document and he  
22 signed it. We talked it through. I mean I write a lot so I  
23 phrased it jointly and he corrected things that he wanted to  
24 be said, and then just over and over. I never took anything  
25 out of it and there it is.

1 Q Okay. Would you be good enough, you have a binder on  
2 your --

3 A I do, yes.

4 Q Yes. Would you turn to Exhibit 15?

5 THE COURT: Do I have one?

6 MS. CHAITMAN: Your Honor --

7 THE WITNESS: I'm sorry, 1-5?

8 BY MS. CHAITMAN:

9 Q 1-5.

10 A Yes, I see it. I'm there.

11 Q Is this one of the customer claims that you assisted  
12 your father in preparing?

13 A Yes.

14 Q Okay. And if you'd look at page 2 where it says a name  
15 of security it says, "See statement attached. I never  
16 withdraw any funds." Was it your idea to -- whose  
17 handwriting is that?

18 A It's his handwriting, it was his idea. I said daddy,  
19 it doesn't belong there, and he said, I want to say it, and  
20 he put it there, and then there's a statement we attached.  
21 That was his idea, that's his handwriting.

22 Q Now, if you go to page 4 of the claim and on the top of  
23 the page there's a question 9, "Have you or any member of  
24 your family ever filed a claim" -- excuse me -- it's  
25 actually -- "under the Securities Investment Protection Act,

1 if so give name of that broker." And then your father  
2 wrote, "My son, Robert Blecker," and then your address. Do  
3 you see that?

4 A Well that was in response to who's assisting you. It  
5 says, "Please list the full name and address of anyone  
6 assisting you --

7 Q Of anyone, yes --

8 A -- in the preparation."

9 Q -- I misstated that. Yes, you're right.

10 A And we wrote -- he wrote, "My son, Robert Blecker," and  
11 gave our address, yes.

12 Q Okay. And then on the next page there's a  
13 February 23rd, 2009 letter.

14 A Yes.

15 Q Who wrote this letter?

16 A Me principally, but us jointly.

17 Q Okay.

18 A And I typed it, and he signed it. But I primarily  
19 phrased it, but we went over it and he would correct a word  
20 or two.

21 Q Okay. Now, in the last paragraph there's a -- the  
22 third sentence says, "I never withdrew a penny."

23 A I'm sorry, would you -- in the last full paragraph?

24 Q The last paragraph of the third sentence. "I never  
25 withdrew a penny."



1 A Yes. Yeah.

2 Q What is that -- why did he repeat that so much in the  
3 process of filing these claims?

4 A Because it was a source of chagrin and anger. As I  
5 said, when he -- when we got involved in the Madoff -- when  
6 we ourselves invested and we invested our daughter's money  
7 in it as well so it became three generations it was with the  
8 understanding that of course you'll never take this out,  
9 this will be for the child's education, when we have  
10 grandchildren for the grandchildren's education. Then when  
11 there came time that we needed money and we didn't have it  
12 liquid and this seems like we could draw it from there we  
13 had one of our very unusual fights -- very unusual for us --  
14 and he said, this is too good an investment, don't do it,  
15 it's not so important to get the apartment, whatever it was  
16 at the time, or the car, I don't remember exactly, and I did  
17 it nevertheless.

18 So then when the fraud was revealed at the end of 2008  
19 of course first of all it looked as if initially he would  
20 lose everything, that everybody would lose everything. And  
21 at that point we had already withdrawn a ballot we had put  
22 in, we weren't sure what he had put in, but we thought we  
23 would -- and I was fearful that we might have withdrawn  
24 slightly more than we had put in then we would be subject to  
25 the claw backs. But at that point of course he would've

1 said, well at least thank heavens I got out what I put in, I  
2 wish I had withdrawn more, but it was nothing like that.  
3 What he said was just the opposite, which was, I should've  
4 taken it out. You were right, I was wrong, I should've  
5 taken it out.

6 So this has been a source of deep anxiety and  
7 frustration for him that he believed in it.

8 THE COURT: Stop, let me stop you.

9 THE WITNESS: Madoff would never do it --

10 THE WITNESS: Sorry, Your Honor?

11 MS. WOLTERING: Objection, Your Honor. How is  
12 this relevant to the PW proceedings and whether or not  
13 Mr. Blecker got PWs? Furthermore, it's all hearsay.

14 THE COURT: Well I thought you were going to  
15 object when he said but he would have said, which is  
16 speculation.

17 MS. WOLTERING: Well that's calls for speculation.

18 THE COURT: But there's a lot in that answer. And  
19 I got it that Mr. Aaron Blecker told Mr. Robert Blecker and  
20 he said all over that he never withdrew a penny. I've got  
21 it. Okay? Let's move along.

22 BY MS. CHAITMAN:

23 Q If you'd look at Exhibit 16. This is the second SIPA  
24 claim that you filed and prepared?

25 A Yes.

1 Q Do you see that?

2 A Yes.

3 Q Okay. And --

4 A Well that we jointly prepared.

5 Q Yeah. And I think that it has all of the same  
6 notations and points that we just discussed.

7 A Except that he wrote, "I never withdrew any funds,"  
8 instead of I never withdrew -- but again, that was his idea,  
9 not mine.

10 Q Right. Right. Now, if you'd look at Exhibit 17. This  
11 is the trustee's determination letter sent to your father  
12 dated October 19th, 2009.

13 A Yes.

14 Q If you look on page 4 of this letter it indicates that  
15 the first deposit was \$50,000 on September 22nd, 1986. Do  
16 you see that?

17 A Yes, I do.

18 Q Now, in 2009 did you know when your father had first  
19 invested through Madoff?

20 MS. WOLTERING: Objection, Your Honor. She's  
21 already elicited this testimony that he doesn't know the  
22 exact date, but that he assumed it was --

23 THE COURT: Yeah. What's the purpose of this  
24 testimony, Ms. Chaitman? This is a transferee account isn't  
25 it? It's the 22 account?

1 MS. CHAITMAN: Yes, Your Honor.

2 THE COURT: I mean it just --

3 MS. CHAITMAN: Yeah, it turned into 156.

4 What the evidence will show, Your Honor, is that  
5 neither Aaron Blecker nor Robert Blecker knew when  
6 Mr. Blecker first invested. And the trustee's determination  
7 letter indicated that the first investment was in 1986.

8 THE COURT: I've seen other letters that said  
9 1981. For this account it was 1986.

10 MS. CHAITMAN: Right. And I'd like to -- I'm  
11 going to be introducing those 1981 statements.

12 THE COURT: But he's not the witness to do that.  
13 He doesn't know. The letters show whatever they show. I  
14 don't doubt there's an objection to a determination letter  
15 because it's part of the history of the claim, but asking  
16 Mr. Blecker, the witness, to testify about this --

17 MS. CHAITMAN: Okay.

18 THE COURT: -- it just doesn't make any sense, and  
19 he didn't even prepare these letters, you know, the --

20 MS. CHAITMAN: Okay.

21 THE COURT: -- customer claims are different.

22 MS. WOLTERING: Your Honor, for the record, just  
23 to clarify, Exhibit 17 that Ms. Chaitman is referring to,  
24 the document -- the rear of that letter it's an improper  
25 compilation. This was not part -- it looks like a scratch

1 pad handwritten note. That is not part of the trustee's --

2 THE COURT: Oh, yeah.

3 MS. WOLTERING: -- determination letter. It was  
4 improperly compiled into this exhibit.

5 THE COURT: Well --

6 MS. WOLTERING: So I just note it for the record.

7 THE COURT: When, as, and if testimony exhibit is  
8 offered --

9 MS. WOLTERING: Yes.

10 THE COURT: -- you can raise that issue.

11 MS. CHAITMAN: I agree, Your Honor, that's  
12 obviously a mistake.

13 BY MS. CHAITMAN:

14 Q Mr. Blecker, would you be good enough to turn to  
15 Exhibit 18?

16 A Yes.

17 Q Now, did you assist your father in writing this letter?

18 A No.

19 Q Okay. So this was a letter dated November 7th, 2009  
20 that was sent to the bankruptcy court to judge -- to the  
21 attention of Judge Lifland?

22 A Yes. I probably wouldn't have let him sent it in that  
23 form with the scratch outs on there, but he was indignant  
24 and insistent.

25 Q Okay. Now, if you'd look at Exhibit 19, please. This

1 is an affidavit of your father. Did you have any role with  
2 respect to this document?

3 A Yes. Yes, I did.

4 Q Okay. And can you tell us what your role was?

5 A Yes, we -- I helped him prepare it and we tried to make  
6 the case as clearly as possible. The -- we didn't know how  
7 much -- that was the relevance of the '81 versus the '86, we  
8 didn't know when he started or how much he had invested and  
9 at this point we were relying on the trustee's records that  
10 it was about 200,000. But he gave me various figures and we  
11 were trying to determine what he was owed and what it had  
12 accreted to and what it started at. So this was my best  
13 attempt, I'm no expert in this stuff, and this was my best  
14 attempt with him.

15 Q Okay. Now, if you'd like at Exhibit 21?

16 A Yeah.

17 Q This is with respect to the joint account that your  
18 parents had; is that right?

19 A I think so.

20 Q It says, "Arthur Blecker, Sophie Blecker --

21 A Oh, I'm sorry, yes, I don't need to go beyond that.

22 Q Yeah.

23 A Right. Yes.

24 Q Okay.

25 A Clearly.

1 Q Okay. And then if you look at the chart, the trustee's  
2 chart on page 4, it doesn't indicate the first date that  
3 there was an investment in the joint account. Isn't that  
4 right?

5 MS. WOLTERING: Objection, Your Honor.

6 THE COURT: Sustained. He didn't prepare the  
7 document, don't ask him about the document.

8 BY MS. CHAITMAN:

9 Q If you'd look at Exhibit 22, Mr. Blecker?

10 A Yeah.

11 Q Is this a document that you assisted your father in  
12 preparing?

13 A Well I must have because I typed -- I mean he never  
14 typed it. Yes. Yes.

15 Q Okay. And on the second page there's wording that's in  
16 bold, do you see that, it begins, "I never withdrew a  
17 penny"?

18 A Yes.

19 Q Okay. And he talks about the fact that he had over two  
20 and a half million dollars in the account?

21 A Yes, about 2.6 I think.

22 Q Now, when you discussed with your father what the  
23 appreciation in his accounts had been what was -- what did  
24 he tell you as to what he understood his appreciation had  
25 been?

1 A That it had done very well, that some years it had held  
2 higher --

3 THE COURT: Hold on.

4 MS. WOLTERING: Objection, Your Honor, calls for  
5 hearsay.

6 THE COURT: Hearsay, sustained.

7 Isn't all this information in the record already  
8 through his deposition? He has repeatedly -- Mr. Aaron  
9 Blecker has repeatedly said that it was a good investment  
10 and he didn't withdraw any money. Didn't he? Isn't that  
11 what the record -- so you're asking this witness the same  
12 question over and over again.

13 BY MS. CHAITMAN:

14 Q If you'd be good enough to turn to Exhibit 24? Did you  
15 ever review the actual statements that your father received?

16 A At the time he received them, no.

17 Q Okay.

18 THE COURT: Is this a statement that BLMIS was  
19 sending out?

20 MS. CHAITMAN: Yes.

21 THE COURT: Because it doesn't look like the  
22 statements I'm used to seeing. Was there a change over and  
23 what was it 1997?

24 MS. CHAITMAN: Judge, I think what you're looking  
25 at is a document produced by the trustee, which was on a



1 computer system, it wasn't printed on letterhead. I think  
2 that may be the difference.

3 THE COURT: Oh, I don't know.

4 MS. WOLTERING: There's an overlay when we were  
5 printed to go to the customers so the internal BLMIS books  
6 and records is missing the overlay that was printed on the  
7 paper that then they printed the statement onto.

8 THE COURT: Thank you. So this is a statement  
9 dated September 30th, 1986, right?

10 THE WITNESS: Yes. Yes.

11 BY MS. CHAITMAN:

12 Q Now, Mr. Blecker, if you'd be good enough to look at  
13 Exhibit 34?

14 THE COURT: Is there a question about 24?

15 MS. CHAITMAN: I had asked him if he had ever  
16 reviewed these at the time his father received them.

17 THE COURT: Okay.

18 THE WITNESS: I'm at 34.

19 BY MS. CHAITMAN:

20 Q You're at 34? Okay. And what is the date of this  
21 statement?

22 A Actually mine starts with page 2 of 5.

23 Q Yeah. You know what, ignore that part of it.

24 A Oh, okay.

25 Q Just look at the date.

1 MS. WOLTERING: Your Honor, I'd object to --

2 THE COURT: Sustained. You're just asking the  
3 witness to read from documents, Ms. Chaitman. Is this  
4 document going to be in evidence?

5 MS. CHAITMAN: Yes. There's no dispute --

6 THE COURT: Well if it's going to be --

7 MS. CHAITMAN: -- from the trustee that these are  
8 admissible.

9 THE COURT: Okay. If it's going to be in evidence  
10 then we have it in evidence --

11 MS. CHAITMAN: Right.

12 THE COURT: -- and it says what it says. I don't  
13 need Mr. Blecker to read it. If it's not going to be in  
14 evidence for whatever reason then he shouldn't be reading  
15 from it, so.

16 MS. CHAITMAN: These are documents to which  
17 there's been a stipulation.

18 THE COURT: Okay. But I'm just -- you don't have  
19 to ask Mr. Blecker --

20 MS. CHAITMAN: Okay.

21 THE COURT: -- about what these documents say.

22 MS. CHAITMAN: Okay.

23 MS. WOLTERING: There's no stipulation as to the  
24 admissibility of the --

25 MS. CHAITMAN: Of these records produced by the

1 trustee?

2 THE COURT: Let us deal with that. Let's --

3 MS. CHAITMAN: Yeah.

4 THE COURT: -- let Mr. Blecker finish his  
5 testimony so he doesn't have to hang around here, unless he  
6 wants to.

7 THE WITNESS: Thank you, Your Honor.

8 THE COURT: Go ahead.

9 BY MS. CHAITMAN:

10 Q Mr. Blecker, if you'd be good enough to look at the  
11 account number on the top line of Exhibit 34?

12 MS. WOLTERING: Objection, Your Honor.

13 THE COURT: Well let me hear what the question is.

14 BY MS. CHAITMAN:

15 Q It's 1-00214-1-5. Can you see that?

16 A Yeah. Yes.

17 Q Prior to seeing this document were you aware that your  
18 father had this account number?

19 A I couldn't testify to that. I didn't -- I wasn't aware  
20 of the numbers of the accounts or what they were. So the  
21 answer I guess has to be no.

22 Q Okay.

23 A I'm still not a master of the numbers of the accounts.

24 Q Would you be good enough to look at Exhibit 50? This  
25 is a collation of letters from a customer named Barbara

1 Alpern (ph) Engel, and I'd like you to look at the second  
2 document in this exhibit.

3 A Yes.

4 Q You see it says --

5 MS. WOLTERING: Objection, Your Honor.

6 THE COURT: Hold on. What's the question?

7 MS. WOLTERING: Counsel has -- these documents are  
8 -- relate to other customers.

9 THE COURT: Yeah, yeah.

10 MS. WOLTERING: She's just asking the witness to  
11 read the documents. He has no knowledge.

12 THE COURT: Yeah, what's -- what are you going to  
13 ask him about these documents?

14 MS. CHAITMAN: These documents -- because the  
15 evidence shows, Your Honor, that Madoff required customers  
16 to send letters if they wanted withdrawals, whether profit  
17 withdrawals or other withdrawals.

18 THE COURT: But these are unsworn letters.

19 MS. CHAITMAN: I'm sorry?

20 THE COURT: They're unsworn letters.

21 MS. CHAITMAN: These are documents that were  
22 produced by the trustee and Madoff testified that he  
23 retained in his files letters from the customers. He also  
24 testified that he would never accept a request for a  
25 withdrawal.

1 THE COURT: Are you going to ask Mr. Blecker to his  
2 knowledge did his father ever write a letter to Madoff  
3 requesting a withdrawal? Is that where this is going?  
4 Where Ms. Engel ever requested a withdrawal just seems to me  
5 to --

6 MS. CHAITMAN: Right.

7 THE COURT: -- be irrelevant, at least to what this  
8 witness might know.

9 MS. CHAITMAN: Okay.

10 BY MS. CHAITMAN:

11 Q Mr. Blecker, when you withdrew money from Madoff did  
12 you do it with a telephone request?

13 MS. WOLTERING: Objection, Your Honor. What Mr.  
14 Blecker did is irrelevant --

15 MS. CHAITMAN: Your Honor --

16 MS. WOLTERING: -- to what his father did or did  
17 not do.

18 THE COURT: Well, you know, you're going to have  
19 testimony about the way the business worked.

20 MS. WOLTERING: But --

21 THE COURT: And I understand the extra --

22 MS. WOLTERING: -- he never had a PW account. His  
23 accounts were different. They were split strike accounts.

24 THE COURT: I'm over -- I will overrule that  
25 objection. Go ahead.

1 BY MS. CHAITMAN:

2 Q When you -- you testified earlier that you withdrew  
3 money from --

4 A Yes, we did.

5 Q And did you do it by making a phone call to Madoff?

6 A No. We had to put it in writing, a request in writing.

7 Q How did --

8 A We initial -- I think we initially called and then they  
9 -- if I remember -- and I'm vague on this. I think we  
10 initially called and then they said we had to request it in  
11 writing and we did.

12 Q Okay. If you would look at Exhibit 61 can you just  
13 identify this as the third SiPC claim that you helped your  
14 father prepare?

15 MS. WOLTERING: I'm sorry. What was the number?

16 THE COURT: 61.

17 (Pause)

18 THE WITNESS: Yeah. Yes. This is very much like  
19 the other two.

20 BY MS. CHAITMAN:

21 Q When you were preparing the SiPC claims did your father  
22 tell you how many accounts he had had with Madoff over the  
23 years?

24 A I don't -- I don't remember that we discussed the exact  
25 number of the accounts. The -- what he had told me was that

1 he -- well, I knew that he had at least these three. I knew  
2 that as some point he had been forced to consolidate them;  
3 that their amounts were great enough and that the demand had  
4 been made upon him that they be consolidated. I don't  
5 recall distinctly discussions about the exact number of  
6 accounts. No.

7 Q Okay. And in the course of your assembling the  
8 documents to produce to me were you able to determine the  
9 total number of accounts that your parents had?

10 A No.

11 (Pause)

12 MS. CHAITMAN: I have no further questions.

13 THE COURT: Any cross-examination?

14 MS. WOLTERING: Yes. One moment, Your Honor.

15 (Pause)

16 CROSS-EXAMINATION

17 BY MS. WOLTERING:

18 Q Good morning, Mr. Blecker.

19 A Good morning.

20 Q I promise I'll keep this short.

21 A I'm sorry. I didn't hear you.

22 Q I said I promise I'll keep this short.

23 A No. It's okay. I appreciate your -- the courtesy of  
24 allowing me to testify first. I really do.

25 MS. WOLTERING: Shannon, if you could please pull

1 up trustees' Exhibit 82.

2 BY MS. WOLTERING:

3 Q I'm going to --

4 A Is that in this -- that's not in this book.

5 Q No.

6 THE COURT: It's going to be on a screen.

7 MS. WOLTERING: It will pop up on your --

8 THE COURT: On your --

9 MS. WOLTERING: Right there.

10 THE COURT: -- on your screen right there.

11 THE WITNESS: Oh. Oh.

12 MS. WOLTERING: Yes.

13 THE COURT: We're very high tech here.

14 (Laughter)

15 BY MS. WOLTERING:

16 Q Mr. Blecker, you testified that the -- that you found  
17 documents in your father's garage, correct?

18 A Yes.

19 Q And --

20 A Yes.

21 Q -- I will represent to you this is one of the documents  
22 your father produced. Does this look familiar?

23 A It looks consistent with the kinds of documents I  
24 found.

25 THE COURT: What exhibit is this?



1 MS. WOLTERING: 82. You should be able to tell in  
2 the top left corner, Your Honor.

3 Shannon, if you could highlight the right two  
4 corners for -- the right two columns, please, and expanding  
5 out the right two columns of Exhibit 82.

6 BY MS. WOLTERING:

7 Q Is this your father's handwriting?

8 A Yes.

9 Q And when you say he methodically reviewed the customer  
10 statements, is this what you were talking about?

11 A That and when he made up his tax returns he went  
12 through -- Madoff would issue monthly large slips and then  
13 smaller slips reflecting each trade. I couldn't deal with  
14 the smaller slips for my own account. He reviewed all the  
15 small slips and he reviewed the large slips.

16 Q So this is his handwriting and his notations?

17 A Yes, it is.

18 Q Thank you.

19 MS. WOLTERING: I have nothing further, Your Honor.

20 THE COURT: Okay. You can step down. Thank you.

21 Do you have any redirect?

22 MS. CHAITMAN: No, I don't.

23 THE COURT: Thank you.

24 MS. BROWN: Your Honor, at this time the trustee  
25 would like to call Lisa Collura to the stand.

1 THE COURT: Sure.

2 MS. BROWN: Thank you, Your Honor.

3 THE WITNESS: Your Honor, do I --

4 THE COURT: Just leave that there. They may need  
5 it for another witness. Thank you.

6 (Pause)

7 THE COURT: Would you raise your right hand,  
8 please, Ms. Collura?

9 LISA COLLURA, WITNESS, SWORN

10 THE COURT: Okay. Please take a seat and speak  
11 into the microphone.

12 Go ahead.

13 MS. VANDERWAL: Good morning, Your Honor. Amy  
14 Vanderwal for the trustee.

15 DIRECT EXAMINATION

16 BY MS. VANDERWAL:

17 Q Good morning, Ms. Collura.

18 A Good morning.

19 Q Please introduce yourself to the Court.

20 A My name is Lisa Collura. I am a senior managing  
21 director at FTI Consulting in the forensic and motivation  
22 consulting practice.

23 THE COURT: Would you keep your voice up and --

24 THE WITNESS: Yes.

25 THE COURT: You can pull the microphone closer to

1 you. Thank you.

2 Go ahead.

3 THE WITNESS: Is that better?

4 THE COURT: Yes. Much better.

5 THE WITNESS: Okay.

6 THE COURT: Thank you.

7 BY MS. VANDERWAL:

8 Q And how long have you worked at FTI?

9 A Almost 17 years.

10 Q Can you describe the types of things you've done while  
11 you've been there?

12 A I manage and direct large scale financial fraud  
13 investigations and those investigations involve forensic  
14 accounting analysis, tracing flow of funds between and among  
15 accounts and among entities. Some of my assignments have  
16 also involved technical accounting as well as auditing  
17 issues.

18 Q And why are you here with us today?

19 A I'm here to talk about the analysis that my team has  
20 conducted of the BLMIS books and records. I'm specifically  
21 here to offer my opinions on my reconciliation that I  
22 conducted of all the cash transactions on the customer  
23 statements, including the PW transactions.

24 Q And can you briefly summarize those findings and  
25 conclusions?

1 A I was able to reconcile 99 percent of the cash  
2 transactions that were reflected on the customer statements  
3 in the two available BLMIS bank records for the time period  
4 that those bank records were available. Those -- that 99  
5 percent included nearly a hundred percent of the PW  
6 transactions for that same time period.

7 THE COURT: What time period?

8 THE WITNESS: The ten -- it's a ten-year time  
9 period that we had available records, December -- available  
10 bank records which was December 1998 to December 2008.

11 THE COURT: Thank you.

12 THE WITNESS: In addition to the ten-year period I  
13 was also able to reconcile over 50 percent of the PW  
14 transactions that spanned all time to other available  
15 records.

16 BY MS. VANDERWAL:

17 Q And let's discuss some of your background. Where did  
18 you attend college?

19 A I went to John Carroll University and received a  
20 bachelors of science in administration and a specific in  
21 accounting degree.

22 Q And do you hold any professional licenses or  
23 certifications?

24 A I do. I am a certified public accountant, a CPA. I am  
25 a certified fraud examiner, CFE, and I'm also certified in

1 financial forensics.

2 Q Can you explain --

3 THE COURT: What was the -- what was the last one?

4 THE WITNESS: It's a CFF. It's certified in  
5 financial forensics.

6 MS. VANDERWAL: Let's air that out.

7 THE COURT: Thank you.

8 BY MS. VANDERWAL:

9 Q What does that mean to be certified in financial  
10 forensics?

11 A So the certification is recognized by the AICPA, the  
12 American Institute of Certified Public Accountants. It --  
13 in order to get the certification you need to meet -- pass a  
14 test and meet certain professional experience requirements  
15 as well as continuing education.

16 Q And you also mentioned that you were a certified fraud  
17 examiner. What are the requirements for that?

18 A It's very similar. You need to pass an exam as well as  
19 meet professional experience requirements in continuing  
20 education every year.

21 Q Are you also a member of any professional  
22 organizations?

23 A Yes. I am a member of the AICPA, the American  
24 Institute of Certified Public Accountants. I'm a member of  
25 the ACFE which is the Association of Certified Fraud

1 Examiners, and I'm also a member of the New York Society of  
2 CPAs.

3 Q How long have you been working in forensic accounting  
4 investigations?

5 A For my whole time at FTI which is nearly 17 years.

6 Q And can you briefly describe that field, the field of  
7 forensic accounting?

8 A Forensic accounting is a specialty area of accounting  
9 where CPAs or accountants will gather and collect evidence  
10 and they'll review and analyze that evidence. The evidence  
11 often includes financial records because this review in many  
12 times is in connection with the fraud. So the -- a forensic  
13 accountant will generally review and analyze this evidence  
14 and interpret the evidence and summarize it in -- to be  
15 presented to a court or another trier of fact.

16 Q Did you rely on your background and expertise in  
17 forensic accounting for the work you performed for the  
18 trustee?

19 A I did.

20 Q Have you been accepted as an expert in forensic  
21 accounting previously?

22 A I have. I have testified as an expert in a matter  
23 related to the Revco fraud a number of years ago. I have  
24 also testified in a matter for -- in --

25 THE COURT: Sorry. Go ahead.

1 THE WITNESS: I've also testified in a matter in  
2 the UK courts related to Madoff International Securities  
3 Limited or MISL, and I've also testified in a number of  
4 other Madoff related matters.

5 BY MS. VANDERWAL:

6 Q Did you submit any expert reports in connection with  
7 your work in Revco?

8 A I did. I submitted two expert reports in the Revco  
9 matter.

10 Q And what did they -- that entail?

11 A So the work that I did in Revco and my related expert  
12 reports related to the fraud investigation that I conducted  
13 related to the alleged fraud at Revco. The specific  
14 analysis involved tracing flow of funds through various  
15 Revco entities. My focus there was on year end and quarter  
16 end transactions and what happened around those time periods  
17 and also there was a very large related party receivable  
18 that was kind of at the center of the fraud and I traced the  
19 roots of that receivable and looked at how that receivable  
20 grew over time.

21 Q And you also mentioned MSIL. What did you -- what work  
22 did you do in connection with that proceeding in London?

23 A So the proceeding in London I was asked to perform a  
24 tracing analysis with respect to transfers between BLMIS in  
25 the U.S. and MSIL in the UK. I also looked at transfers to

1 and from bank and brokerage accounts held by Bernie Madoff  
2 personally.

3 My specific -- one of the specific focuses in that  
4 matter was looking at the source of those transfers and  
5 where those funds were coming from.

6 Q And you also mentioned other work with the trustee in  
7 this liquidation. Can you very -- sorry. Can you very  
8 briefly describe what that work entailed?

9 A Yes. So there's a number of adversary proceedings  
10 brought on by the trustee and I have issued dozens of expert  
11 reports in those proceedings. They involve my  
12 reconciliation and tracing analysis specific to the accounts  
13 that are at issue in those proceedings, very similar to the  
14 analysis that I conducted for the PW transactions.

15 Q Are you being compensated for your time working for the  
16 trustee?

17 A I'm not personally, but FTI is.

18 Q Do you know how much FTI is compensated for your time  
19 in this proceeding?

20 A At the time that I issued my reports in this proceeding  
21 my hourly rate was \$554 an hour. My current hourly rate in  
22 the Madoff matters generally is \$654 an hour.

23 Q Ms. Collura, do you have any financial interest in the  
24 outcome of this proceeding?

25 A I do not.



1 Q Okay.

2 MS. VANDERWAL: Your Honor, based on the foregoing  
3 testimony I would proffer Lisa Collura as an expert in  
4 forensic accounting.

5 THE COURT: Any objection?

6 MS. CHAITMAN: I do have an objection because I  
7 don't think that the witness has testified that she has any  
8 expertise other than if you look at her report as counting -  
9 - she has no expertise in determining whether checks were  
10 actually sent to customers.

11 THE COURT: Well, she's a forensic accountant. She  
12 was just tracing the documents and I assume she will explain  
13 the confirmations that she could or could not find that  
14 coincided with the PW notations on the customer statements.

15 MS. CHAITMAN: Right. But she's already indicated  
16 that the issue she was retained to determine was the  
17 documentation with respect to profit withdrawals. As Your  
18 Honor has been told, profit withdrawals ended in 1997.

19 THE COURT: For Mr. Blecker.

20 MS. CHAITMAN: No, for everybody.

21 THE COURT: That's --

22 MS. VANDERWAL: That is not --

23 THE COURT: There's no evidence of that.

24 MS. CHAITMAN: Well, the -- I don't believe there  
25 were any profit withdrawals for the period from December

1 1998 through 2008 when she said she was able to confirm all  
2 the transactions. They -- she defined the transactions not  
3 as profit withdrawals, but as cash transactions.

4 THE COURT: No. But let --

5 MS. CHAITMAN: So --

6 THE COURT: She's being offered as an expert in  
7 forensic accounting and specifically with the PW  
8 transactions confirming or not confirming that PW  
9 transactions represented actual withdrawals by the customer.

10 Do you have any objection to her expertise to do  
11 that and, if so, tell me what it is. I understand the  
12 argument about -- that there were no records prior to 1998  
13 and as I said before I'm being asked to infer that if those  
14 records existed they would also support profit withdrawal  
15 actions. Again -- but that's -- you know, that's a decision  
16 I'll make after hearing all the evidence. But the question  
17 is whether she's qualified to testify as to the forensic  
18 accounting of the PW transactions.

19 MS. CHAITMAN: Your Honor, I don't and when --

20 THE COURT: You don't what?

21 MS. CHAITMAN: I don't think she's qualified as an  
22 expert --

23 THE COURT: Okay. Just tell --

24 MS. CHAITMAN: -- to testify.

25 THE COURT: -- me why.

1 MS. CHAITMAN: Because first of all she clouded her  
2 conclusions by including non-profit withdrawal transactions.

3 THE COURT: I don't know what her conclusions are.  
4 I don't even know what her testimony is.

5 MS. CHAITMAN: Okay. Well, can we -- can I  
6 preserve my objection and then you'll --

7 THE COURT: Well, you can -- I guess you can always  
8 object that it's beyond the scope of her expert report.

9 MS. CHAITMAN: Well, in her expert report --

10 THE COURT: If her conclusions are unclear, I mean,  
11 maybe that will go to the weight, but not the admissibility  
12 of her testimony. That's what cross-examination is for.

13 MS. CHAITMAN: Okay.

14 THE COURT: All right.

15 MS. CHAITMAN: Okay.

16 THE COURT: I'm satisfied that the witness is an  
17 expert in forensic accounting and that PW issue is a poster  
18 child for forensic accounting. So she's qualified to  
19 testify.

20 MS. VANDERWAL: Thank you, Your Honor.

21 BY MS. VANDERWAL:

22 Q When did you start working on the Madoff case, Ms.  
23 Collura?

24 A I was part of the team at FTI that started in December  
25 of 2008 and --

1 THE COURT: Please. It's -- it's very distracting.

2 MS. CHAITMAN: I'm sorry.

3 THE COURT: Go ahead. I'm sorry.

4 THE WITNESS: FTI -- in December 2008 FTI was  
5 retained by counsel to the trustee to analyze and  
6 reconstruct the books and records of BLMIS.

7 BY MS. VANDERWAL:

8 Q And what was your role in connection with that  
9 engagement?

10 A I specifically was tasked with looking at the cash  
11 transactions that were reflected on the customer statements  
12 of BLMIS accounts and specifically looking at reconciling  
13 those cash transactions to available BLMIS bank records.  
14 Later I was also asked to conduct a tracing analysis to  
15 identify where transfers went -- when transfers left BLMIS  
16 if I could trace where those transfers went to.

17 Q Could you please explain what you mean by reconcile?

18 A Sure. So reconcile means I matched or I agreed or I  
19 determined consistency between two sources of information.  
20 Particularly in this case it was again the cash transactions  
21 reflected on the customer statements compared to one source  
22 including the BLMIS bank records, but also other sources of  
23 information.

24 Q And is this process of reconciliation something that's  
25 typically employed by a forensic accountant?

1 A Yes. I would say that forensic accounting assignments  
2 generally involve reconciliation.

3 Q And you also mentioned tracing. Can you explain what  
4 tracing means to you?

5 A Tracing is following the flow of funds from one bank  
6 account to another. In this case it was looking at when the  
7 funds left BLMIS bank accounts could I identify the bank  
8 account that those funds went to.

9 Q And is tracing an activity typically performed by  
10 forensic accounting?

11 THE COURT: I'm -- I can't hear your questions.

12 MS. VANDERWAL: All right.

13 BY MS. VANDERWAL:

14 Q Is tracing something that's typically performed by  
15 forensic accountants?

16 A It is.

17 Q Turning now specifically to the profit withdrawal  
18 matter how did you begin working on issues related to PWs?

19 A In or about 2015 I was asked to conduct a  
20 reconciliation analysis specific to the PW transactions and  
21 looking at the PW transactions as reflected on the customer  
22 statements reconciling those transactions to BLMIS bank  
23 records that were available to me, correspondence in  
24 customer files that were maintained at Madoff with the  
25 Madoff records as well as any documents that were produced

1 or received by the trustee.

2 Q Did you prepare any reports?

3 A I did. I prepared -- the first report that I prepared  
4 was in July 2015 and then I issued a supplemental report in  
5 December of 2015.

6 Q Can you briefly describe those reports, please?

7 A The July report essentially addressed four areas. The  
8 first area was what I refer to as my global reconciliation  
9 and this is where I looked at all the cash transactions,  
10 cash deposits and withdrawals that were reflected on the  
11 customer statements during the ten-year period for which we  
12 had available bank records.

13 Secondly, and more specifically to PW, I was asked to  
14 reconcile PW transactions again to the BLMIS bank records,  
15 also to correspondence or other documents containing  
16 customer files and other records that were received by the  
17 trustee.

18 Thirdly, I was asked to look at the -- with respect to  
19 the PW transactions if they were withdrawals in the form of  
20 a check to specifically look at the check payee of those  
21 with -- related to those withdrawals and if it was in the  
22 form of a wire transfer to specifically look at the wire  
23 beneficiary and reconcile that information to the BLMIS  
24 account holder.

25 And then lastly I was asked to trace PW transactions

1 from BLMIS to bank accounts held by the account holder for  
2 the time period for which I had available BLMIS bank  
3 records.

4 Q That was your June report, and what did you do in your  
5 December report?

6 A So my December report was much narrower than my July  
7 report. It was specific to the PW transactions in the  
8 participating accounts at that time. And I also had  
9 reviewed additional documents that had been received by the  
10 trustee since July 2015.

11 Q To prepare those two reports what documentation did you  
12 refer to or use?

13 A I looked at BLMIS bank records. I looked at the  
14 customer statement data which contained the cash deposit and  
15 withdrawal transactions. I looked at the documentation  
16 contained in customer files as well as documents produced to  
17 the trustee.

18 Q Let's start with the BLMIS bank records. Can you  
19 generally describe what you mean when you say BLMIS bank  
20 records?

21 A Yes. So the -- there were a number of bank accounts  
22 and lots of bank records that were analyzed and there were  
23 over 90 bank accounts either in the name of BLMIS or Bernard  
24 L. Madoff that we looked at in order to determine, well,  
25 what bank accounts were used for purposes of cash deposit

1 and withdrawals. And I then determined that based on my  
2 analysis that there were three bank accounts used in the  
3 ten-year period for customer deposits and customer  
4 withdrawals.

5 MS. VANDERWAL: Put up Demonstrative 1, please.

6 BY MS. VANDERWAL:

7 Q Ms. Collura, did you prepare this demonstrative?

8 A I did.

9 Q Is it an accurate representation of your analysis?

10 A Yes, it is.

11 Q Could you please walk us through it?

12 A So these are the three bank accounts that I just  
13 referenced. The first one listed there right in the middle  
14 is the JPMorgan 703 account. 703 is just the last three  
15 digits of the account number so for short we would call it  
16 as the -- refer to it as the 703 account held at JPMorgan.  
17 This was the primary account where cash deposits from BLMIS  
18 customers were deposited into. This account also  
19 transferred money to BLMIS customers in the form of cash  
20 withdrawals.

21 The JPMorgan 703 account funded the JPMorgan 509  
22 account. Again, the 509 just represents the last three  
23 digits of the account number. We refer to that as the 509  
24 account. The 509 account was a hundred percent funded by  
25 the 70 -- transfers from the 703 account. The 509 account



1 was referred to as a controlled disbursement account which  
2 is an account used for checks to -- to write checks from. I  
3 -- you know, a controlled disbursement account is a typical  
4 account used by companies that write a lot of checks.

5 And, essentially, what it means is that it only gets  
6 funded from the 703 account or the main account, in this  
7 case the 703 account to the extent that the funds are needed  
8 to cover checks that are clearing on any particular day. So  
9 all of the checks -- all of the outflows or transfers out of  
10 the 509 account were in the form of checks and the majority  
11 of those checks went to BLMIS customers.

12 Lastly on this chart there is the -- a banker's trust  
13 account and this was a third account that we identified as  
14 being used for customer transaction -- cash transactions.  
15 This account was also funded a hundred percent by the 703  
16 account at least for the time period for which we have  
17 available records for this account. And this account had  
18 wire transfers as well as checks that were written to BLMIS  
19 customers.

20 Q Okay. And do you want to take us through the time  
21 periods for records that you mentioned for each account?  
22 What time periods we have records for each of those  
23 accounts?

24 A Sure. So the -- for the 703 account and the 509  
25 account we have records for the ten-year period that I

1 referenced earlier which is December 1998 to December 2008.

2 For the banker's trust account we have records for  
3 December -- starting again in December 1998, stopping in --  
4 the majority of the activity stopped in May of 1999. We did  
5 find some statements after May of 1999, but based on my  
6 review it was very limited activity and then eventually it  
7 was closed out.

8 So at least for the time -- the six-month time period,  
9 December 1998 to May 1999, there was activity in the  
10 banker's trust account.

11 Q And we're all done with that. Thank you.

12 What types of documents when you say you reviewed bank  
13 records what -- let's start with the 703 account, what types  
14 of documents did you review?

15 A The 703 account had monthly bank statements. We looked  
16 at deposited checks into the 703 account, related deposit  
17 slips. There were canceled checks that were written from  
18 the 703 account as well as wire detail or wire information  
19 regarding the wire transfers in and out of the account.

20 Q And were those documents found at BLMIS?

21 A Some were. The ten-year period of -- for those records  
22 were included in the documents found at BLMIS. There were  
23 also documents produced to the trustee directly from  
24 JPMorgan and that -- those documents consisted of a seven-  
25 year time period from December 2001 to December 2008.

1 Q And did you review both the documents, the bank records  
2 found at BLMIS and those provided by JPMorgan?

3 A I did.

4 Q And was there any difference in form between the two?

5 A No. They were substantially consistent in form and  
6 content.

7 Q For the 509 account what documents did you review?

8 A So for the 509 account the -- I primarily reviewed the  
9 canceled checks. As I mentioned before it was a checking  
10 account. I also reviewed the monthly bank statements for  
11 that account.

12 Q And were those records found at BLMIS?

13 A The same as for the 703, for a seven-year time period  
14 we received records from JPMorgan as well as records for  
15 that account within Madoff's records. For the three years  
16 preceding that, so December 1998 to November 2001 those  
17 records were only from Madoff's records.

18 Q And were -- again, was there any difference between the  
19 documents found at BLMIS and those produced by JPMorgan?

20 A No. They were substantially the same in --

21 Q Okay. For the third bank account you mentioned  
22 banker's trust, what documents did you review?

23 A This bank account, again, monthly bank statements  
24 because there were checks written from this account there  
25 were canceled checks, also wire transfer detail. There were

1 wire confirmations found in BLMIS records related to the  
2 banker's trust account.

3 Q Did you review all of the BLMIS bank records that were  
4 available?

5 A Either I did or somebody on my team under my direct  
6 supervision.

7 Q And are the bank records of the types we've been  
8 discussing the type of evidence typically relied upon by  
9 forensic accountants?

10 A Yes. They are.

11 Q So you also mentioned that you reviewed the data from  
12 customer statements; is that correct?

13 A That's correct.

14 Q And how did you use that data?

15 A So the data from the customer statements, again,  
16 specifically the customer cash transactions, the cash  
17 deposits and withdrawals that were reflected on the customer  
18 statements, was essentially the source of my reconciliation  
19 so that was my starting point of what I was trying to  
20 reconcile to other sources of information.

21 Q When FTI was first engaged by the trustee were you  
22 aware that BLMIS was alleged to be a Ponzi scheme?

23 A Yes. I was aware of that.

24 Q How did that impact the reconciliation you were asked  
25 to perform using the customer statement data?

1 A It didn't. It -- my task was to look at the cash  
2 transactions on the customer statements and to see if those  
3 cash transactions appeared in the bank records, which they  
4 did for the time period that I conducted my reconciliation.  
5 So the fact that there was an alleged Ponzi scheme really  
6 had no impact on what I was tasked to do.

7 Q Have you had prior experience working on matters where  
8 there's alleged fraudulent activity?

9 A Yes. Revco was an alleged fraud.

10 Q And what is your role in that situation?

11 A So I think in my -- in all my forensic accounting  
12 assignments, including Revco and Madoff, part of what I do  
13 is when I review documents I look at those documents to  
14 identify what's reliable on these documents and what's not.  
15 And that's where reconciliation comes into play where I can  
16 reconcile to third party documents or other source --  
17 sources.

18 Q And did you find the customer data information here to  
19 be reliable?

20 A The customer cash transactions on the customer  
21 statements, yes.

22 Q The final first I believe you said you relied upon  
23 what's BLMIS customer files. Can you explain how you used  
24 the --

25 A So based on my review of the customer files there was

1 often correspondence regarding the cash transactions in the  
2 customer accounts. And that helped me to reconcile those  
3 cash transactions, whether it was a request for a withdrawal  
4 or a communication regarding a cash deposit into a customer  
5 account.

6 So I relied on those documents to reconcile to cash  
7 transactions that appeared on the customer statements.

8 Q In addition to the customer correspondence what else  
9 did you observe in the customer files?

10 A There were -- within the customer files there were  
11 other documents including customer agreements or agreements  
12 between the customer and BLMIS. There were also other  
13 agreements depending on what the -- what type of account or  
14 who was the account holder. So if -- in other words if the  
15 account holder was a trust, the trust agreement would often  
16 be included in the customer file. There was a name and  
17 address form which was just had general contact information  
18 about the customer. And sometimes I would see written notes  
19 from BLMIS employees.

20 Q How many customer files have you reviewed?

21 A I've reviewed hundreds of customer files.

22 Q And did you rely on the customer files in arriving at  
23 your opinions?

24 A I did.

25 Q And is a customer file the type of evidence relied on

1 in the ordinary course of forensic accountants?

2 A These type of customer files are specific to this -- to  
3 the Madoff case. However, I would put those in the  
4 categories of company records that are relevant in  
5 conducting an investigation of transactions occurring at a  
6 company.

7 Q And based on your review on your reconciliation did you  
8 find the contents of the customer files to be reliable?

9 A I did. And that's based on the fact that I could  
10 reconcile the correspondence in those files to cash  
11 transactions on the customer statements.

12 Q You also mentioned documents -- that you review  
13 documents received by the trustee. Can you explain what you  
14 mean by that?

15 A The trustee received documents from account holders,  
16 sometimes in -- as part of an adversary proceeding maybe  
17 there were documents attached to a customer claim that was  
18 filed with the trustee. These documents also sometimes came  
19 from the -- an account holder's accountants that were  
20 produced to the trustee, but they were related to the  
21 activity in the customer accounts.

22 Q And are these types of records records that are  
23 typically used by forensic accountants?

24 A Yes. I mean, again, I think that these are specific to  
25 this matter, but generally I would say that records received

1 from, you know, outside the company can represent documents  
2 that were maintained either contemporaneously maintained or  
3 just maintained in customer files. So they -- they are very  
4 relevant to an investigation.

5 Q And did you find the correspondence in the customer  
6 files to be reliable?

7 A The correspondence in the customer files?

8 Q Uh-huh.

9 A Yes.

10 Q And the other documents produced to the trustee?

11 A Yes. So the -- you know, I reviewed thousands of  
12 documents produced to the trustee and those that were  
13 related to the PW transactions were consistent with the  
14 activity that I saw in the customer accounts.

15 Q So we've talked about four categories of material that  
16 you reviewed in connection with your reconciliation. Is  
17 there anything else that you reviewed with respect to your  
18 PW reconciliation?

19 A Yes. I also reviewed deposition transcripts or  
20 transcripts of depositions taken in this -- in the PW  
21 proceeding of former BLMIS employees.

22 Q Can you recall which employees?

23 A I reviewed the transcript from Annette Bongiorno's  
24 deposition, Bernie Madoff, Dorothy Kahn (ph), JoAnn Salla  
25 (ph), Winifred Jackson (ph), and Alethia Long (ph) I believe



1 is her last name.

2 Q When did you review those reports?

3 A The --

4 Q Those transcripts?

5 A The transcripts. Just recently over the past month.

6 Q Did your review of the employee testimony change any of  
7 the conclusions that had been contained in your report?

8 A No. They did not. And, if anything, they further  
9 supported by conclusions.

10 Q Let's turn now to the specifics of your global  
11 reconciliation. Can you explain generally how you completed  
12 that reconciliation?

13 A So again my global reconciliation was looking at all of  
14 the cash transactions that were reflected on the customer  
15 statements for the ten-year period for which we had  
16 available bank records. And during that time period there  
17 were over 225,000 cash transactions, again, cash deposits  
18 and withdrawals. So that was one source of information and  
19 that was, you know, my starting point for my reconciliation.

20 On the other hand I had the BLMIS bank records,  
21 specifically for the three bank accounts that we referred to  
22 before, the 703, the 509 and the banker's trust. So I'm  
23 starting with two, but I should mention that within those  
24 three bank accounts there was over 150,000 transactions  
25 included in those bank accounts. So I had two very large

1 data sets of information that I was tasked with reconciling.

2 And, you know, I -- we methodically approached the  
3 reconciliation, but it did require a lot of manual review.

4 But at the end of the day my goal was to account for  
5 every one of the 225,000 transactions on the customer  
6 statements and the over 150,000 transactions on the bank  
7 records. And, you know, they either agreed or they didn't.

8 Q And briefly what was the overall result of your  
9 reconciliation?

10 A Overall I reconciled 99 percent of those 225,000  
11 transactions on the customer statements to the available  
12 bank records.

13 Q Let's look at an example of how you performed your  
14 reconciliation.

15 THE COURT: Can I just ask the 225,000, does that  
16 include the PW transactions?

17 THE WITNESS: Yes, it does.

18 THE COURT: How many during that period?

19 THE WITNESS: There was approximately 5,500 PW  
20 transactions in that period.

21 THE COURT: Thank you.

22 BY MS. VANDERWAL:

23 Q Okay. So let's have Exhibit 1, please. Ms. Collura,  
24 what is this document?

25 A This is customer statement data for the account held by

1 Alan Herwitz and Barbara Herwitz (ph) for the month of  
2 October 2001.

3 Q And is there -- what transaction would you like to talk  
4 about on this exhibit?

5 A The first transaction listed there that's dated October  
6 1st with the description, check wire, a CW transaction  
7 called for \$574,241.32.

8 Q Okay. Take a look at Exhibit 2, please. Can you tell  
9 us what this document is?

10 A This is a monthly bank statement for the 703 account  
11 for the month of October 2001.

12 Q Okay. If you go to page 11, please. And what  
13 information did you use from this document?

14 A The first transaction listed there is dated October 1st  
15 and it's an outgoing wire for \$574,241.32. And it also  
16 references in the description the account of Alan R. plus  
17 Barbara J. Herwitz.

18 Q Okay. So if we look at Exhibit 1 and 2 together would  
19 you please walk us through your reconciliation?

20 A So the main data points that I reconciled was date and  
21 in this case they were both dated -- both of these  
22 transactions on the customer statement as well as the BLMIS  
23 bank records were dated October 1st. The amounts  
24 reconciled. They're both -- they match exactly in this  
25 case. And, again, in the description on the bank statement

1 it references the account holder, Alan and Barbara Herwitz.

2 So I would consider these transactions reconciled.

3 Q Okay. Thank you.

4 Did all of the cash transactions match up in this one  
5 to one way?

6 A No. They did not.

7 Q Can you explain that a little bit?

8 A There were often times where there was multiple  
9 transactions on the same day in the same amount that we  
10 would need to look further into in order to reconcile the  
11 specific transactions to one another.

12 Q Okay. So let's look at one of those examples. We're  
13 going to use Exhibits 3, 4, 5 and 6. Can you start with  
14 Exhibit 3, please?

15 Can you tell us what this document is?

16 A This is a statement of -- a monthly bank statement for  
17 the 703 account for the month of August 2007.

18 Q Okay. Can you take a look at page 43? It's a little  
19 hard to see, but is there an example here of the  
20 transactions you were just discussing?

21 A Yes. The first three transactions listed there are all  
22 dated August 29th of 2007, all -- these are all outgoing  
23 wires for \$500,000 each.

24 Q Can we have the first page of Exhibit 4? Tell us what  
25 this document is.

1 A This is information, customer statement data from the  
2 BLMIS system for the account held by MJ 2005 Grats for the  
3 month of August 2007.

4 Q Okay. If we could take a look at Exhibit 3 and Exhibit  
5 4 together. Could you explain your reconciliation using  
6 these documents?

7 A Sure. So at the bottom is the -- again, the page from  
8 the 703 account statement, monthly account statement. In  
9 the description of the first transactions there for \$500,000  
10 it references MJ 2005 Grats. And this is an outgoing wire  
11 for \$500,000 which reconciles to the check wire dated August  
12 29th of 2007 for an outgoing cash withdrawal of \$500,000.

13 Q Okay. Can you take a look at Exhibit 5. Tell us what  
14 this document is.

15 A This is the customer statement data for an account held  
16 by Famad (ph), LLC for the month of August 2007.

17 Q Okay. And could we have Exhibit 3 and Exhibit 5  
18 together. Can you walk us through your reconciliation here?

19 A So the second transaction at the bottom on -- that's on  
20 the 703 statement is references in the transaction  
21 description Famad, LLC and then I would have reconciled that  
22 transaction to the first cash withdrawal transaction for the  
23 account of Famad, LLC that's dated the same day for a  
24 \$500,000 cash withdrawal.

25 Q Okay. Thank you.

1 And finally let's look at Exhibit 6. Do you recognize  
2 this document?

3 A It's the customer statement data for the account held  
4 by Sidney Laden (ph) for August 2007.

5 Q Okay. And if we put Exhibit 3 and Exhibit 6 up  
6 together can you once again explain the reconciliation?

7 A Very similar to what I just described. At the very  
8 last of the three transactions in the description it  
9 references Sidney R. Laden, that would be reconciled to the  
10 \$500,000 withdrawal, cash withdrawal that appears on the  
11 customer statement for Sidney Laden for the month of August  
12 2007.

13 Q Okay. Thank you.

14 Did you ever have a single transaction in the bank  
15 account that was made up of multiple customer deposits?

16 A Yes. Often there were -- this really was relevant for  
17 the deposits that were in the form of checks. So a number  
18 of BLMIs customers may have deposited checks on the same day  
19 and those checks would be accumulated into one deposit and  
20 taken to the -- taken to the bank and deposited in the 703  
21 account as one deposit.

22 Q Let's look at an example of that. Can we have Exhibit  
23 7, please? Can you tell us what this document is?

24 A This is a monthly bank statement for the 703 account  
25 for the month of June 2004.

1 Q And if we go to page 34 can you tell us what  
2 transaction that you would like to talk about?

3 A The first transaction listed there dated June 22nd is a  
4 deposit into the J -- into the 703 account for \$688,000 and  
5 with the description deposit cash letter which was the kind  
6 of generic description for a deposit into the account.

7 Q Can we look at Exhibit 8, please? Can you explain what  
8 this is?

9 A This is a deposit slip for a deposit into the 703  
10 account for the one that we just looked at on the statement  
11 for \$688,000 dated June 22nd, 2004. There are seven amounts  
12 listed there that make up the total deposit of \$688,000.

13 Q Okay. Let's take a look at Exhibit 51. Can you tell  
14 us what this is?

15 A This is a copy of a deposited check into BLMIS, written  
16 to BLMIS by an account held by Andrew Cohen. The check is  
17 dated June 17th, 2004 for \$75,000 and there's also in the  
18 memo line or the for line there's a reference to an account  
19 1C1219-3-0.

20 Q Let's take a look at Exhibit 9, please. Do you  
21 recognize this document?

22 A This is the cash -- I'm sorry -- the customer statement  
23 data for Andrew Cohen's account, Account Number 1C1219-30  
24 for the month of June 2004.

25 Q Can you go to page 4, please? And what transaction

1 would you like to discuss on this?

2 A The -- about halfway down there's a transaction with  
3 the Code CA for \$75,000. This is a cash deposit that was  
4 dated June 22nd, for \$75,000 into the Andrew Cohen account  
5 at BLMIS.

6 Q So how would you have reconciled the documents that  
7 we've seen?

8 A So this \$75,000 was the first 75,000 -- I don't know if  
9 you're able to pull up the deposit slip that lists the  
10 various checks that were included in the --

11 Q Is it --

12 (Pause)

13 A So up at the upper left-hand corner of the screen  
14 there's the deposit slip. The first check listed there is  
15 \$75,000. So that -- I would have concluded that this check  
16 from Andrew Cohen was included in the deposited amount of  
17 \$688,000 that we saw on the JPMorgan statement.

18 Q And did you reconcile the remaining entries on the  
19 deposit slip?

20 A I did and they were other customer cash deposits that  
21 were made on that same day.

22 Q And did you analyze all of the transactions in the 703  
23 account for the time we had those records available?

24 A Yes. I reviewed and analyzed all the transactions.

25 Q Moving on to the 509 account did you reconcile the 509



1 account in the same manner that you reconciled the 703  
2 account?

3 A The task was the same, but it was a little bit  
4 different just because the 509 account was a checking  
5 account. So in my reconciliation of transactions to the 509  
6 account I primarily relied on the canceled checks from that  
7 account.

8 Q Okay. I would like to look at one example. Can we  
9 have Exhibit 10, please?

10 Can you tell us what this is?

11 A This is the customer statement data for an account held  
12 by Max B. Cohen Family Foundation for the month of April  
13 2007. The account number is 1C1342.

14 Q Okay. And what transaction would you like to discuss?

15 A The first transaction there which is a \$400,000 cash  
16 withdrawal in the form of a check as indicated by the  
17 description there dated April 3rd, 2007.

18 Q Okay. If you could look at 11. Do you recognize this  
19 document?

20 A I do. This is a copy of a canceled check written --  
21 for a check written from the 509 account and --

22 Q Give me them both together.

23 (Pause)

24 Q Can you explain how you used these together?

25 A Yes. So, again, using kind of the primary points of

1 information the date of the check is April 3rd, 2007 which  
2 reconciles to the date of the transaction on the customer  
3 statement. The check payee is Max B. Cohen Family  
4 Foundation which reconciles to the account holder. The  
5 check amount is \$400,000 which reconciles to the amount of  
6 the cash withdrawal transaction, and lastly in the memo line  
7 of the check is the account number 1-C-1342 which reconciles  
8 to the account number of Max B. Cohen Family Foundation.

9 Q Did you complete a similar reconciliation for all the  
10 checks from the 509 account that were available to you?

11 A Yes, I did.

12 Q And the third account you mentioned was banker's trust.  
13 How did you perform your analysis for that account?

14 A It was very similar with -- to the examples that we  
15 just walked through. The banker's trust account had  
16 outgoing transfers to customers both in the form of a wire  
17 transfer as well as checks. So the examples that we just  
18 walked through were -- it was the same process for the  
19 banker's trust account.

20 Q Could you take a look at Trustee Demonstrative 2? Ms.  
21 Collura, did you prepare this document?

22 A I did.

23 Q And could you tell us what it demonstrate -- what it  
24 shows?

25 A This shows that for the time period for which we had

1 available bank records, again December 1998 to December 2008  
2 there was approximately 225,000 transactions of -- cash  
3 transactions on the BLMIS customer statements. I reconciled  
4 99 percent of those cash transactions to available BLMIS  
5 bank records. The one percent that I was unable to  
6 reconcile was primarily related to canceled checks that I  
7 didn't have available to me.

8 Q Okay. Let's move on from your global reconciliation  
9 to your profit withdrawal reconciliation.

10 THE COURT: Would this be a good time to take a  
11 five-minute break?

12 MS. VANDERWAL: Great.

13 THE COURT: Okay. Five minutes. We're going to  
14 try and keep it to five minutes.

15 (Recessed at 11:54 a.m.; reconvened at 12:04 p.m.)

16 THE COURT: Go ahead.

17 BY MS. VANDERWAL:

18 Q Ms. Collura, we were turning to your profit withdrawal  
19 reconciliations. Could you please briefly explain your  
20 analysis with regard to PW transactions?

21 A For PW transactions I was asked to reconcile those  
22 transactions to the available BLMIS bank records for the  
23 ten-year time period. So those PW transactions were  
24 included in my global reconciliation analysis that we just  
25 walked through.

1 In addition to that I was asked to reconcile PW  
2 transactions for spanning all time to available records that  
3 contained in BLMIS customer files as well as documents  
4 received by the trustee. And I was also asked to trace PW  
5 transactions to bank accounts held by the account holders  
6 for the time period for which I had available bank records.

7 Q What is the population of profit withdrawal  
8 transactions in total?

9 A Approximately 91,000 PW transactions.

10 Q And how many occurred within the ten-year period we've  
11 been talking about?

12 A Approximately 5,500.

13 Q And how many of the PW transactions in the ten-year  
14 period were you not able to reconcile?

15 A There were only 20 PW transactions in the ten-year  
16 period that I wasn't able to reconcile to BLMIS bank records  
17 because I didn't have a copy of the canceled check.  
18 However, 15 of those 20 I was able to reconcile to other  
19 documentation including the documents in the customer file  
20 or otherwise received from the trustee.

21 So therefore there were only five PW transactions in  
22 the ten-year period that I was unable to reconcile.

23 Q Let's look at an example of a PW reconciliation to the  
24 bank records. Could we have Exhibit 12, please? Can you  
25 tell us what this document is?

1 A This is a customer statement data for the account held  
2 by Marjorie Klaskin (ph), account 1K0033 for the month of  
3 November 1998.

4 Q And what transaction would you like to discuss?

5 A The PW transaction that's about halfway down the  
6 statement dated November 25th.

7 Q Okay. Can we have Exhibit 13, please? Can you tell us  
8 what this is?

9 A This is the front of the copy of the canceled check for  
10 the check made payable to Marjorie Klaskin dated November  
11 25th, 1998.

12 Q Okay. And so if we look at Exhibit 12 and 13 together  
13 could you explain your reconciliation, please?

14 A Sure. So on the customer statement the PW transaction  
15 dated November 25th with the description check, Cardinal  
16 Health, for \$448 reconciles to the check, the various points  
17 of information on the check which is the check payee is  
18 Marjorie Klaskin who is the account holder. The date of the  
19 check is November 25th, 1998 which agrees to the date of the  
20 PW transaction on the customer statement. \$448 is the  
21 amount of the check which reconciles to the amount of the PW  
22 transaction. And, lastly, in the memo field for the check  
23 is the account number 1K0033 which reconciles to the account  
24 number held by Marjorie Klaskin.

25 Q Did you complete a similar analysis for each PW that --

1 transaction that occurred in the ten-year period?

2 A For all PW transactions that occurred through a check,  
3 yes. There were also PW transactions in the form of a wire  
4 transfer.

5 Q Okay. How did the reconciliation differ for a wire  
6 transaction?

7 A So I would reconcile the same points of information,  
8 but I would use -- I obviously wouldn't use a copy of the  
9 canceled check for a wire transfer. I would use information  
10 that appeared on the face of the 703 bank statement and any  
11 other wire detail that was available to me related to that  
12 transaction.

13 Q Okay. Let's move on to customer files. How did you  
14 use customer files to perform your reconciliation?

15 A So there were -- there was correspondence in customer  
16 files that I reviewed related to PW transactions and often  
17 the -- they were instructions from the account holder to  
18 either start sending profit withdrawals or in some cases to  
19 stop sending profit withdrawals and to start reinvesting  
20 those profits.

21 So I would use those letters to reconcile to a series  
22 of PW transactions either before or after that date that was  
23 -- that was in accordance with the customer's instructions.

24 Q Did you see letters in customer files requesting each  
25 profit withdrawal transaction that would appear on the

1 customer statement?

2 A There were a few instances that I -- there were a few  
3 customer files that contained multiple letters that  
4 referenced specific PW transactions or requested specific PW  
5 transactions. But for the most part the files that I  
6 reviewed contained correspondence similar to the  
7 instructions that I described earlier which was more of a --  
8 I guess a general instruction to either start or to stop PW  
9 transactions.

10 Q How many transactions were you able to reconcile using  
11 customer files?

12 A Approximately 6,000.

13 Q And for what time period was that correspondence  
14 available?

15 A The correspondence went all the way back into the  
16 1980s.

17 Q Let's take a look at an example. Could we have Exhibit  
18 19, please?

19 (Pause)

20 THE COURT: Is there a technical problem?

21 MS. VANDERWAL: We are experiencing technical  
22 difficulties. We apologize, Your Honor.

23 THE COURT: Uh-huh.

24 MS. VANDERWAL: We can use our binders if that will  
25 work.

1 THE COURT: I have it.

2 MS. VANDERWAL: All right. Excellent.

3 THE COURT: Something can be said for paper.

4 MS. VANDERWAL: We can go old school.

5 BY MS. VANDERWAL:

6 Q Ms. Collura, do you have Tab 19?

7 A Yes.

8 Q Could you tell us what this document is, please?

9 A This is the name and address form that was included in  
10 the customer file for Sylvia Brodsky's --

11 THE COURT: Okay. Hold on.

12 THE WITNESS: -- account.

13 THE COURT: Do -- Ms. Chaitman, do you need time to  
14 find the document?

15 MS. CHAITMAN: I'm sorry.

16 THE COURT: Do you need time to find the document?

17 MS. CHAITMAN: I'm sorry. I did.

18 THE COURT: Okay. Just let me know when you're  
19 ready.

20 MS. CHAITMAN: Okay.

21 (Pause)

22 MS. CHAITMAN: I'm ready.

23 THE COURT: All right. Thank you. Go ahead.

24 MS. VANDERWAL: Thank you.

25 BY MS. VANDERWAL:



1 Q Please tell us what Exhibit 19 is.

2 A Exhibit 19 is the name and address form that was  
3 included in the customer file for Sylvia Brodsky's account,  
4 1B0194.

5 Q Okay. Would you take a look at Exhibit 20? Can you  
6 tell us what that document is, please?

7 A Exhibit 20 is the contents of additional documents that  
8 were included in the customer file.

9 Q Okay. I think it's back on our --

10 A Yeah.

11 Q -- our monitor. So if we could take a look at page 43  
12 of that exhibit, please? Thank you.

13 Could you tell us what is relevant about this document?

14 A This document is a letter dated October 15th, 1994  
15 related to Account 1B0066 which was the old account prior to  
16 opening of 1B194 that -- that I just referenced that  
17 appeared on Exhibit 19. So this account was -- or, I'm  
18 sorry, this letter on page 43 is signed by Benjamin Brodsky  
19 and it looks to be Sylvia Brodsky related to Account 1B0066.

20 The -- and the second to the last paragraph that  
21 starts, As I do not, I'll just read it: "As I do not wish to  
22 have the profits reinvested you are notified to send a check  
23 for the profits on any trades that are made subsequent to  
24 the above date."

25 Q And when you were describing the types of letters that

1 you saw in customer accounts earlier, was this one of what  
2 you would be referring to?

3 A Yes, it is.

4 Q And after seeing a letter like this how would you use  
5 it in your reconciliation process?

6 A I would then look at the activity in the customer  
7 statements for this account, 1B0066, particularly the PW  
8 transactions and look to see the dates of when the PW  
9 transactions started and stopped to see if it was consistent  
10 with the instructions according to this letter.

11 Q Can we have Exhibit 22, please?

12 Can you tell us what this document is?

13 A This is a customer ledger for the account held by  
14 Benjamin and Sylvia Brodsky, Account Number 1B0066 for the  
15 month of November 1994.

16 Q And how would you use this Exhibit 22, Exhibit 20 to  
17 reconcile the transaction?

18 A So again the letter that we just read was dated October  
19 15th, 1994 asking or requesting to start -- start sending  
20 profits on the account. And this customer ledger in Exhibit  
21 22 is dated November 1994, which is the next month and this  
22 was the first PW transaction that appeared in this account  
23 and was the -- if you see the very first transaction there  
24 listed dated November 28th with the description, check CBS  
25 transaction code PW for \$9,917. So I would have used this

1 letter to reconcile to this transaction as well as  
2 subsequent PW transactions that took place in this account.

3 Q Did you perform a similar analysis for all of the  
4 relevant correspondence you found in the customer files?

5 A I did.

6 Q Okay. You also mentioned that you used documents  
7 received by the trustee in your analysis?

8 A Correct.

9 Q Can you explain how you did that?

10 A So I reviewed thousands of documents that were received  
11 by the trustee from account holders or, as I mentioned  
12 before, some of those were from accountants of the account  
13 holders. And I would -- my review of those documents was to  
14 look specifically for documents related to PW transactions  
15 and these could have included bank records of the account  
16 holders, accounting records, correspondence, some were the  
17 same copies of correspondence that I saw in the customer  
18 files.

19 Q How many transactions were you able to reconcile using  
20 these documents produced to the trustee?

21 A Over 46,000 transactions.

22 Q And for what time periods were these documents  
23 available?

24 A The documents went back to the 1980s.

25 Q Who produced these documents to the trustee generally?

1 A They were account holders. Many of the documents were  
2 produced by one account holder in particular by the name of  
3 Norman Levy.

4 Q And what types of documents did Mr. Levy provide?

5 A Mr. Levy provide -- generally produced bank records for  
6 -- related to his bank account at JPMorgan.

7 Q Let's review an example of these customer documents.  
8 Can we have Trustee 31, please?

9 (Pause)

10 Q Do you recognize this document?

11 A I do.

12 Q And what is it?

13 A This is a document produced to the trustee by an  
14 account holder under the name AHT Partners. At the top you  
15 can see AHT Partners - B Madoff Investment indicating that  
16 this was a document related to the -- his Madoff investment.  
17 The information that was relevant to me on this document was  
18 the date column and the fourth column over which is titled,  
19 checks received. And I used those -- the information in  
20 those two columns to reconcile to the PW transactions in the  
21 AHT Partners' account.

22 Q Okay. I would like to take a look at Exhibit 32,  
23 please. Can you tell us what this is?

24 A This is a customer ledger for the account held by AHT  
25 Partners for the month of February 1998 -- I'm sorry --

1 1993, February 1993.

2 Q And if we can put Exhibit 31 and 32 up together, Ms.  
3 Collura, could you walk us through how you completed your  
4 reconciliation using these documents?

5 A If we specifically look there are three transactions --  
6 PW transactions that were reflected on the February 1993  
7 customer statement for AHT Partners. And the three PW  
8 transactions, the first one is dated February 4th that's  
9 about halfway down and with the description check Oakwood in  
10 that amount, \$3,630.27 appears under the checks received  
11 column on the document.

12 The second one is dated February 10th for check  
13 Motorola with -- in the -- as the -- excuse me -- as the  
14 description in the amount \$16,053.50 which again appears on  
15 the schedule under the checks received. And similar the  
16 last PW transaction on this statement dated February 18th,  
17 1993 the amounts match between the schedule and the customer  
18 statement.

19 Q Did all of the transactions identified on this schedule  
20 match to the customer statement, the schedule in Exhibit 31?

21 A Yes. There were about 60 transactions. Some of the  
22 dates were off maybe one or two days. There was one amount  
23 that had an extra digit, but otherwise all of the  
24 transactions reconciled to the PW transactions.

25 Q Let's look at one more example. Can we have Exhibit

1 33, please?

2 (Pause)

3 Q Do you recognize this document?

4 A Yes. This is a customer statement for the account held  
5 by Irwin Kenneth Horowitz for the month of February 1993.

6 Q And what transaction are we going to discuss on this?

7 A There is a PW transaction about halfway down dated  
8 February 18th for \$1,681.76.

9 Q Okay. Let's look at Exhibit 35, please. Can you tell  
10 us what this is?

11 A This is a bank statement that was produced to the  
12 trustee for an account held at American Savings Bank for  
13 Irwin Kenneth Horowitz for the period ending March 19th,  
14 1993.

15 Q Okay. And if we could take a look at Exhibit 33 and 35  
16 together, could you please explain how you used these  
17 documents?

18 A So on Exhibit 35 which is the customer statement there  
19 was -- we saw the PW transaction dated February 18th for  
20 \$1,686.76. I would expect to see the deposit into Irwin  
21 Horowitz's personal bank account and, in fact, I did. Under  
22 the checking account transaction section there is a deposit  
23 a few days later on February 23rd for the exact same amount  
24 as the PW transaction.

25 Q Did you complete a similar reconciliation analysis for

1 the other documents (indiscernible) to the trustee?

2 A I did.

3 Q Can we have Demonstrative 3, please? Did you prepare  
4 this demonstrative?

5 A I did.

6 Q And could you please explain it?

7 A This is the results of my reconciliation of the PW  
8 transactions, talking about the three sources of  
9 information, the BLMIS bank records. I reconciled 5,507 PW  
10 transactions to those available records. I reconciled 6,008  
11 PW transactions to BLMIS customer files, and the circle at  
12 the top, the blue circle at the top indicates that I  
13 reconciled 46,128 PW transactions to documents received by  
14 the trustee. The crossover of the circles is there to  
15 indicate that there were often times where I reconciled to  
16 multiple sources. So in -- for an example, the BLMIS bank  
17 records as well as correspondence in the customer files.

18 So overall I reconciled 51,769 PW transactions to one  
19 or more of these three sources.

20 Q After you completed your profit withdrawal analysis did  
21 you become aware of any changes to the cash deposit and  
22 withdrawal data that you used to complete your  
23 reconciliation?

24 A Yes, I did.

25 Q And what was the nature of those changes?

1 A They were what I considered to be minor changes to the  
2 PW transaction information, so date, the transactions  
3 description or -- and sometimes the amount of the PW  
4 transaction needed to change to match what was on the  
5 microfilm from BLMIS records.

6 Q Did you consider those changes in your analysis?

7 A I did. I reviewed every single one of them.

8 Q And did any of those changes impact your overall  
9 conclusion?

10 A No, they did not.

11 Q Now you mentioned you also conducted a tracing analysis  
12 for profit withdrawal transactions. Could you please  
13 explain that?

14 A So for my tracing analysis, again, tracing is following  
15 the flow of funds from one bank account to another. In this  
16 case BLMIS bank accounts to accounts held by the account  
17 holders. So for the PW transactions that took place in the  
18 ten-year time period for which I had available BLMIS records  
19 to conduct that tracing I looked -- if it was in the form of  
20 a check transaction I would look at the information on the  
21 copy of the canceled check. If it was in the form of a wire  
22 transfer, I would look at whatever wire detail I had  
23 regarding that transaction to tell me where the funds went  
24 when they left BLMIS.

25 Q Okay. Let's take a look at an example. Can we have



1 Exhibit 12 and 13 up again, please?

2 (Pause)

3 Q Can you remind us what these two documents were -- are?

4 A These are the -- the first one at the top is the  
5 customer statement data for the account held by Marjorie  
6 Klaskin for, I don't -- I don't see -- I think this was for  
7 1998. I don't see the date of the -- there it is. November  
8 1998. And then the bottom is the front of the copy of the  
9 canceled check related to this transaction. What's -- what  
10 I would need for my tracing analysis is actually the back of  
11 that check, that canceled check.

12 (Pause)

13 Q Okay. Can you explain how you used the back of the  
14 check?

15 A So what appears in the lower right-hand corner of the  
16 screen is information that was contained on the back of the  
17 canceled check that related to the PW transaction for \$448  
18 dated November 25th.

19 The endorsement on the back of the canceled check was  
20 important for my tracing analysis to indicate who was  
21 signing the check, and in this case it was Marjorie Klaskin  
22 that is Marjorie Klaskin, an endorsement of Marjorie Klaskin  
23 which matches the check payee.

24 The redacted account number right under the endorsement  
25 ending in 9342 represents the account that this check was

1 deposited into and the banking institution was Chase  
2 Manhattan Bank which I know is a little bit hard to read on  
3 the stamp there, but -- so I would conclude that this check  
4 for \$448,000 -- \$448, I'm sorry, was deposited by Marjorie  
5 Klaskin into an account held at Chase Manhattan Bank.

6 Q Okay. Did you perform a similar analysis for all the  
7 bank records that you had available to you?

8 A For the PW transactions in the ten-year period, yes.

9 Q Can we see Demonstrative 4, please?

10 (Pause)

11 Q Do you recognize this demonstrative?

12 A I do.

13 Q And did you prepare it?

14 A Yes, I did.

15 Q Can you explain what it shows?

16 A This shows the results of my reconciliation -- of my --  
17 sorry -- my tracing analysis of the ten-year period PW  
18 transactions and reflects that I was able to trace for  
19 99.997 percent of the time nearly a hundred percent of the  
20 time traced the PW transaction to the BLMIS account holder.  
21 There was .003 percent of the PW transactions where I didn't  
22 have records sufficient for me to trace and that could  
23 either be because I didn't have a copy of the canceled check  
24 or I may have had a copy of the canceled check and the  
25 information on the back of the canceled check was

1 insufficient for me to trace that transaction.

2 Q As a forensic accountant are you confident in the  
3 conclusions we discussed today to a reasonable degree of  
4 certainty?

5 A I am.

6 Q As part of your analysis did you review the customer  
7 files of Mr. Aaron Blecker?

8 A I did.

9 Q Are you aware that Mr. Blecker's account statements  
10 reference PW transactions?

11 A Yes, they do.

12 Q Do you know for which of his accounts?

13 A 1B0022 and 1B0023.

14 Q Were you able to reconcile any of Mr. Blecker's profit  
15 withdrawal transactions?

16 A I was not.

17 Q And why is that?

18 A For the -- there was -- for the three sources of  
19 information that I reconciled to there was no available  
20 records related to Mr. Blecker's PW transactions. For the  
21 BLMIS bank records that were available to me in the ten-year  
22 time period there was no PW transactions in Mr. Blecker's  
23 account during that time period. There was no  
24 correspondence in Mr. Blecker's customer files that were  
25 related to his PW transactions and the records that were

1 produced to the trustee by Mr. Blecker or attached to his  
2 claim were not related to his PW transactions.

3 Q Okay. Can we have Exhibits 36, 37 and 38, please?

4 (Pause)

5 Q Can we have the full exhibit? Can you tell us what  
6 this document is, Ms. Collura?

7 A This is the cover of the folder for the customer file  
8 for 1B0156 held by Aaron Blecker. And actually, I'm sorry,  
9 the account number right above his name is the old account  
10 1B0022.

11 Q Okay. And what is the 1B0156 if you know?

12 A 1B0156 is the new account after 1B0022 stopped having  
13 any activity in that account and then it became 1B0156.

14 Q Okay. And do you see the number on top of the 1B0022?

15 A Yeah. Yes. It is 10025410.

16 Q Do you know what that number represents?

17 A That was the all numeric account number that was the  
18 number before it was assigned 1B0022.

19 Q Can we have Exhibit 37, please?

20 THE COURT: So all three numbers were the same  
21 account essentially?

22 THE WITNESS: Yes. I would consider the first two  
23 accounts the same account meaning, you know, they took it  
24 down, but the two that are on like the file folder label --

25 THE COURT: Can we see that number again?

1 THE WITNESS: -- those two --

2 THE COURT: Which one?

3 THE WITNESS: -- the numeric and then the 1B0022 as  
4 the same account. The 1B0156 was a new account after the  
5 activity in 1B0022 stopped.

6 THE COURT: Thank you.

7 BY MS. VANDERWAL:

8 Q Okay. Can we take a look at Exhibit 37, please? Do  
9 you recognize this document?

10 A This is the name and address form that was included in  
11 many of the customer files for 1B0022 account held by Aaron  
12 Blecker.

13 Q And the number to the left of the 1B0022, is that the  
14 same number that was on the cover?

15 A Yes.

16 Q Okay. Could we have Exhibit 38, please? Do you  
17 recognize this document?

18 A This is the back of the customer file folder for 1B0022  
19 and the note is indicating that the new account is 1B0156.

20 Q Can we have Exhibit 40, please?

21 (Pause)

22 Q Can you tell us what this is?

23 A This is the cover to the customer file for 1B0023 held  
24 by Arthur and Sophie Blecker, and similarly the old account  
25 number, the all numeric is listed right above the 1B0023

1 which is 10021510 and then the handwritten account number of  
2 1B0157 is the new account number after 1B0023 ended.

3 Q Okay. Can we have Exhibit 41, please?

4 (Pause)

5 Q Can you tell us what this is?

6 A This is the name and address form that was included in  
7 the customer file for 1B0023 held by Arthur and Sophie  
8 Blecker.

9 Q Thank you.

10 Can we have Exhibit 42?

11 (Pause)

12 Q Can you tell us what this is, please?

13 A This is the back of the file folder for the customer  
14 file of 1B0023 indicating that the new account number is  
15 1B0157.

16 Q Thank you.

17 Exhibit 43, could you please tell us what this is?

18 A This is the front of the customer file for Aaron  
19 Blecker's account, Number 1B0156.

20 Q Exhibit 44, please. What is this document.

21 A This is similar to the name and address form. It's  
22 called the customer master file maintenance for 1B0156 which  
23 also the old account number is indicated there, 1B0022 for  
24 the account held by Aaron Blecker.

25 Q Exhibit 45, please.

1 (Pause)

2 Q Can you tell us what this is?

3 A This is the contents of the customer file for 1B0156.

4 Q Can we take a look at page 25 of this exhibit? Do you  
5 recognize this document?

6 A Yes. This is the customer agreement that was included  
7 in the customer file for 1B0156. I often saw this -- a copy  
8 of the customer agreement that looks like this in a number  
9 of the customer files.

10 Q Thank you.

11 Could we have Exhibit 46, please?

12 UNIDENTIFIED SPEAKER: Could you repeat the number,  
13 please?

14 MS. VANDERWAL: 46. Sorry.

15 UNIDENTIFIED SPEAKER: No problem.

16 BY MS. VANDERWAL:

17 Q And can you tell us what this is?

18 A This is the back of the customer file for 1B0156.

19 Q Thank you.

20 Okay. Exhibit 47, please. Can you tell us what this  
21 is?

22 A This is the front of the customer file folder for  
23 Arthur Blecker's account, Arthur and Sophie Blecker's  
24 account with the number 1B0157.

25 Q Exhibit 48. Can you describe this, please?

1 A This is the customer master file maintenance or similar  
2 to a name and address form for 1B0157. And you can notice  
3 at the top the 1 -- the old account number 1B0023 is crossed  
4 out, but the name on this account is Arthur Blecker and  
5 Sophie Blecker.

6 Q And Exhibit 49, do you recognize this document?

7 A This is the contents of the -- this customer file for  
8 1B0157.

9 Q And was there a customer agreement in this customer  
10 file as well?

11 A Yes. On page 8 of the exhibit is the customer  
12 agreement.

13 Q Can we go to page 8, please? That's the agreement to  
14 which you were referring?

15 A Yes.

16 Q Thank you.

17 Do you have any observations about the contents of the  
18 four files that we just looked at?

19 A I did not identify any correspondence in these files  
20 that reflected any disagreement from either Mr. Blecker or  
21 his wife, Sophie Blecker, regarding any of the cash  
22 transactions in any of these accounts.

23 Q Thank you, Ms. Collura.

24 MS. VANDERWAL: That's all I have for now.

25 MS. CHAITMAN: Can we --



1 THE COURT: Do you want to take a lunch break now?  
2 We'll reconvene at a quarter to two?

3 MS. CHAITMAN: That would be great for me. Thank  
4 you, Your Honor.

5 THE COURT: Okay.

6 (Recessed at 12:39 p.m.; reconvened at 1:47 p.m.)

7 THE COURT: Ms. Chaitman.

8 MS. CHAITMAN: Thank you, Your Honor.

9 Your Honor, can you hear me from here? It's just  
10 I'm going to be juggling two different --

11 THE COURT: If you can move the microphone closer -  
12 -

13 MS. CHAITMAN: Closer.

14 THE COURT: -- it would be easier. Are you picking  
15 her up? Would you speak again? We want to see if we can  
16 pick you up on the recorded --

17 MS. CHAITMAN: Oh. Are you able to pick me up from  
18 here? Okay. Great.

19 THE COURT: Okay.

20 MS. CHAITMAN: Is this okay for you, Judge?

21 THE COURT: Yes.

22 MS. CHAITMAN: Okay. Great. Thanks.

23 CROSS-EXAMINATION

24 BY MS. CHAITMAN:

25 Q Ms. Collura, I apologize. I'm looking at you over the

1 --

2 A I know.

3 Q -- the screen. It's okay. As long as you can see me.

4 That's fine. Thank you.

5 A Is that better?

6 Q That's perfect.

7 A Okay.

8 Q Thanks.

9 You ended your testimony with the following statement:

10 "I did not identify any correspondence in these files  
11 that reflected any disagreement from either Mr. Blecker  
12 or his wife, Sophie Blecker, regarding any of the cash  
13 transactions in any of these accounts."

14 Do you recall that?

15 A Yes.

16 Q Okay. Did you identify any correspondence in these  
17 files that reflected any agreement by either Mr. Blecker or  
18 Ms. Blecker to any of the cash transactions in any of these  
19 accounts?

20 A No. There was no correspondence regarding the PW  
21 transactions.

22 Q Okay. And, in fact, if we look at --

23 THE COURT: We can't pick that up. That's the  
24 problem.

25 MS. CHAITMAN: Sorry.

1 BY MS. CHAITMAN:

2 Q Ms. Collura, I just brought you my exhibit binder and I  
3 would like you to look at Exhibit 8 if you would.

4 (Pause)

5 Q And if you turn to the end of this report of yours  
6 which ends on page 8 and then you look at the next page  
7 you'll see that there's a chart that you prepared.

8 A On page 6?

9 Q No. It's --

10 A Oh.

11 Q -- actually after page 8.

12 A Okay.

13 Q Can you identify -- this is part of a much larger  
14 chart, isn't it?

15 A Yes. There was a number of attachment D's. This is  
16 one of them.

17 Q Okay. But you prepared an analysis with respect to  
18 each customer as to whether there was documentary evidence  
19 indicating that that customer received profit withdrawals,  
20 isn't that true?

21 A Yes. These charts represent the results of my  
22 reconciliation to the various sources of information.

23 Q Okay.

24 A Yes.

25 Q So if we go across another -- these pages deal with Mr.

1 Blecker's account 1B0022. Do you see that?

2 A Yes.

3 Q Okay. And if we go across the top you list -- am I  
4 correct that in the transaction date column you list every  
5 date on which there appeared a PW on a statement issued to  
6 Mr. Blecker; is that right?

7 A Correct.

8 Q Okay. And then the next column going to the right you  
9 list the amount next to the PW entry; is that right?

10 A Yes.

11 Q Okay. And then the next column down is the type of  
12 transaction and these are all PWs, right?

13 A Correct.

14 Q Okay. And then the transaction description is the next  
15 column and it's Check TRW, Check Holiday Corp., Check  
16 Anheiser Busch. Do you see those?

17 A Yes. Under --

18 Q So you --

19 A -- under the transaction description column.

20 Q So you were summarizing in this document the notation  
21 on every statement that Mr. Blecker received which had a PW  
22 entry; is that right?

23 A Yes.

24 Q Okay.

25 A That is correct.

1 Q And then you have a box which says reconciliation  
2 results. And if I'm reading across from left to right it  
3 says reconciled to BLMIS bank records and the answer going  
4 all the way down and actually through all of the pages of  
5 Mr. Blecker's account you wrote N/A, right?

6 A Correct.

7 Q And what -- what did you intend to indicate by N/A?

8 A That there -- the BLMIS bank records were not available  
9 for the time period for which these transactions were dated.

10 Q Okay. And the next column says BLMIS customer files  
11 and, again, going through every single page it says N/A. Do  
12 you see that?

13 A Yes.

14 Q And what does that mean?

15 A There was -- there was no correspondence in Mr.  
16 Blecker's customer files that reconciled to these PW  
17 transactions.

18 Q Okay. And, in fact, with respect to the vast majority  
19 of customers who had PW entries there were such letters in  
20 their files, weren't there?

21 A For 6,000 PW transactions there were. I reconciled to  
22 correspondence in the customer files.

23 Q Right. So that was one of your primary sources of  
24 confirmation, was it not?

25 A It was one of the three sources that I reconciled to.

1 Q Right. But if we're talking about a period as you've  
2 described it prior to 1998 you didn't have any bank records  
3 that you could reconcile to, isn't that true?

4 A Correct. No BLMIS bank records. Correct.

5 Q Right. So you were relying a hundred percent upon  
6 other documentary evidence, isn't that true?

7 A Prior to the ten-year period?

8 Q Yes.

9 A Yes. The correspondence in the customer file and  
10 documents received by the trustee.

11 Q Okay. And to the extent that you were able to verify  
12 profit withdrawal receipts by customers, you relied upon the  
13 letters in the customer files, didn't you?

14 A That was one source that I relied upon. Yes.

15 Q Okay. And those went back to the early 1980s, didn't  
16 they?

17 A Correct.

18 Q And those letters were all located in the customer file  
19 for each specific customer, isn't that true?

20 A There were some letters that were related to a customer  
21 account that may have been in the prior successor account  
22 meaning that a new account if the account changed, but it  
23 was in a related customer file account.

24 So in other words, if I was looking at a PW transaction  
25 for account A001, just as an example, but that account

1 changed to a new account number, the correspondence may have  
2 been in the customer file for the new account number.

3 Q Okay. But it was in a file which somehow was labeled  
4 for the customer, right?

5 A Right. Correct.

6 Q Okay. And then the last two columns -- oh, documents  
7 received by trustee is the third column in the  
8 reconciliation results. And what were you referring to  
9 there?

10 A Those would have -- that's referring to any documents  
11 received by the trustee from the account holder or in some  
12 cases accountants or other parties --

13 Q Or from --

14 A -- related to the account --

15 Q -- third parties?

16 A -- from third parties. Correct.

17 Q And, again, with respect to this account you had no  
18 such documentation; is that right?

19 A Correct.

20 Q Okay. And then the last two columns on this Exhibit D,  
21 Defendant's 8, can you tell me what those represent?

22 A If there -- those two columns are there to include a  
23 specific Bates number or a reference to the -- a document if  
24 I did have a document that I was able to reconcile to. So  
25 if there was a document in the customer file I would have

1 put the Bates reference there to that specific document.

2 Q Okay. So, again, just to be clear with respect to the  
3 Blecker accounts you did not have a single document which  
4 indicated that the Bleckers requested withdrawals or  
5 received them, isn't that true?

6 A For this account that we're looking at, that's right.

7 Q Yes. And did you look at any of the other Blecker  
8 accounts?

9 A I did. I believe it was 1B0023 was another Blecker  
10 account that had PW transactions.

11 Q Okay. Now just so that we're all clear about this. If  
12 you would look at Exhibit 12 of the trustees' exhibits --

13 MS. CHAITMAN: Amy, I don't know if you want to  
14 pull that up for the witness or if you want me to use the  
15 binder.

16 MS. VANDERWAL: We can pull it up. Just give us  
17 one moment.

18 UNIDENTIFIED SPEAKER: One of ours?

19 MS. VANDERWAL: Yeah.

20 THE COURT: Which exhibit is this? Which exhibit?

21 MS. CHAITMAN: They're going to pull it up, Your  
22 Honor, so you'll be able to see it on the screen.

23 THE COURT: Okay. Thank you.

24 (Pause)

25 MS. CHAITMAN: It's on the screen.



1 THE WITNESS: Oh.

2 BY MS. CHAITMAN:

3 Q I don't mean to confuse you, but you're looking at my  
4 binder and --

5 A Oh. Right. Yes.

6 Q -- this is --

7 A That's why I was confused.

8 Q Yeah.

9 A Thank you for clarifying that.

10 Q So -- okay. So we're looking on the screen at Exhibit  
11 12 which was a statement about which you testified and it's  
12 a Marjorie Claskin (ph) statement dated 11/30/98. And  
13 there's an entry which says, check Cardinal Health, and then  
14 it says PW. Do you see that?

15 A Yes.

16 Q Okay. I just want to be clear. That's what we're  
17 talking about here, isn't that true? We're talking about  
18 entries that indicated check, name of corporation and then  
19 PW?

20 A There were some PW transactions that had the PW code  
21 but may not have had a reference to something other than  
22 check. But if any transaction had the code PW that was part  
23 of the population, the 91,000 transactions that I've been  
24 referring to as PW transactions.

25 Q Okay. But if we go back to my Exhibit 8 which was that

1 part of your report which had the table, with respect to Mr.  
2 Blecker's account every entry was -- had that format, check  
3 and then Enron, Snapple, American Brands. Do you see that?

4 A Yes. That's correct.

5 Q Okay. Now when you looked at the trustees' exhibits at  
6 Exhibit 39 --

7 MS. VANDERWAL: What number was that?

8 MS. CHAITMAN: 39. 39.

9 BY MS. CHAITMAN:

10 Q So this is a little bit hard to see, but if you look  
11 sideways it says, Arthur and Sophie Blecker, reading from  
12 the bottom and then 1 -- I don't know, it looks like 2510,  
13 1B2510 and then on top of that -- oh, thank you so much.  
14 That's so much better. And then it says 10021310. Do you  
15 see that?

16 A The top number is 100215.

17 Q Do you see that?

18 A And then the number in -- right under that is 1B0025.  
19 Is that a 5?

20 Q Right.

21 THE COURT: Is it --

22 THE WITNESS: Or is it a three?

23 BY MS. CHAITMAN:

24 Q Okay. So then it -- so it goes from 10021510 to  
25 1B002510, right?

1 THE COURT: 2510 or 2310?

2 THE WITNESS: That's -- yeah. That's a hard --  
3 it's hard to read. I thought the number was 1B0023.

4 THE COURT: It does look like --

5 MS. CHAITMAN: 23?

6 THE COURT: It looks like -- I don't know.

7 BY MS. CHAITMAN:

8 Q Okay. You may be right because if I look at Exhibit 41  
9 this indicates 1B00 -- could you pull up 41?

10 MS. VANDERWAL: Can you refer to the trustees'  
11 exhibits when you're referring to --

12 MS. CHAITMAN: Okay.

13 MS. VANDERWAL: -- exhibits?

14 MS. CHAITMAN: If you would pull up Trustee Exhibit  
15 41. Thank you so much.

16 (Pause)

17 BY MS. CHAITMAN:

18 Q So this is for 1B0023-10. Do you see that?

19 A Yes, at --

20 Q Okay.

21 A -- the top.

22 Q Okay. And then on the bottom of this page it has two  
23 other account numbers. Do you see that 100214 and then  
24 100215? Do you see that?

25 A Yes. I see those numbers.

1 Q Now do you understand those to be predecessor accounts?

2 A I understand -- well, at least for the 100215 that also  
3 appeared on the cover was the account number when BLMIS was  
4 using all numeric account numbers before they changed to an  
5 alpha-numeric system. So I don't know if you would call it  
6 a predecessor or that was just the account number for this  
7 account prior to when it became 1B0023.

8 Q Okay. But is it your understanding that once it became  
9 1B0023 there were no more statements issued by Madoff under  
10 100215?

11 A That would be my understanding that I wouldn't expect  
12 to see any statements for the all numeric account.

13 Q If you would be good enough going to my binder to look  
14 at Exhibit 38. Do you see this is a statement dated 9/30/90  
15 and it's for account number 215-9-0?

16 A Yes.

17 Q Okay. Do you know why Mr. Madoff was still issuing  
18 statements for that account as of 9/30/1990?

19 A I -- when -- I don't recall the specific year when the  
20 change was made from an all numeric account number to an  
21 alpha-numeric.

22 Q Well, if I can ask you -- let me come back to that  
23 because I have to find the document which has a date on it.

24 (Pause)

25 Q Now looking at the Trustees' Exhibit 36 this lists

1 accounts 1B0156 and then the predecessor accounts appear to  
2 be 1002510. Do you see that?

3 A It's 100254, 4510, 254 --

4 Q 410. Okay. And do you understand that to be a  
5 predecessor account?

6 A Again, I'm not sure if I would use the word  
7 predecessor. I think that that was the all numeric account  
8 number associated with 1B0022 when it changed over from all  
9 numeric to alpha-numeric.

10 Q Okay. And, again, would you expect Mr. Madoff to have  
11 continued to send out statements on account 25410 after the  
12 account was renamed 1B0156?

13 A I wouldn't expect it. No.

14 Q Okay. In the course of your research did you go back  
15 and look at all of the account statements for the  
16 predecessor accounts?

17 A All available customer statement information was  
18 captured as part of my starting point for my reconciliation.  
19 So to answer your question, yes, we would have considered  
20 all accounts at all times and the -- identified the cash  
21 transactions in those accounts.

22 Q If we go back to Exhibit 8, your chart on Mr. Blecker's  
23 account, do you have that?

24 A Yes.

25 Q Okay. So the date of the first transaction that you

1 have listed is 11/24/86.

2 THE COURT: Which page?

3 MS. CHAITMAN: Page --

4 THE COURT: Page 1 of the four page exhibit?

5 MS. CHAITMAN: Yeah. It's 11 of 19 on the very  
6 top, but it's --

7 THE COURT: Uh-huh.

8 MS. CHAITMAN: -- it begins with list of PW  
9 transactions 1B0022. Exhibit 12 in my binder. Excuse me.  
10 Exhibit 8 in my binder. It's the first page of the chart.  
11 BY MS. CHAITMAN:

12 Q Do you see that?

13 A The date of the first transaction is November 24th,  
14 1986.

15 Q Okay. And then if you go further on in the chart  
16 there's -- there were four pages relating to Mr. Blecker's  
17 account and then with respect to Sophie Blecker and Arthur  
18 Blecker you began with 1982. Do you see that?

19 A So you're looking at page 1 of 5 --

20 Q Of five. Yes.

21 A -- for the next chart which --

22 Q Yes.

23 A -- is Attachment D-18 --

24 Q Yes.

25 A -- for account 1B0023?

1 Q Yes.

2 A The first -- the date of that first PW transaction in  
3 that account is August 24th, 1982.

4 (Pause)

5 Q Yeah. Looking at my Exhibit 36 this is a statement  
6 dated 7/31/81. Do you see that?

7 A Yes, I do.

8 Q And can you tell me if you included that statement in  
9 your summary which is part of Exhibit 8?

10 A I did not because there's no PW transactions reflected  
11 on this statement.

12 Q Okay. Are you confident, though, that you reviewed  
13 these statements from the very beginning?

14 THE COURT: Which -- what -- what do you mean by  
15 these statements?

16 MS. CHAITMAN: These statements --

17 THE COURT: For this account?

18 MS. CHAITMAN: -- referring to the Blecker  
19 accounts.

20 BY MS. CHAITMAN:

21 Q That you reviewed all of the Blecker accounts from the  
22 very beginning of the accounts.

23 A I feel confident that the data that I started with in  
24 terms of the identification of cash transactions for all  
25 customer accounts would have included any cash transaction

1 on customer statements going back as far as possible which  
2 would have included these statements dated as early as 1981.

3 Q Okay. And you were only looking for profit withdrawal  
4 transactions; is that right?

5 A That's correct. PW transactions that had -- either had  
6 the code PW or there were some transactions with the code CW  
7 that we included in the population of PW transactions  
8 because it had a description that was similar to a PW  
9 transaction. So like check with a -- maybe a company name  
10 after.

11 Q Okay. But in any event you wouldn't have had the  
12 predecessor account and the subsequent number account  
13 issuing simultaneously statements for the account, isn't  
14 that true?

15 A I'm sorry. Can you repeat the question?

16 Q Well, if we take the joint account and --

17 THE COURT: What was the numeric number of the  
18 joint account?

19 MS. CHAITMAN: Well, it began with 254 and it  
20 became 1B0156.

21 BY MS. CHAITMAN:

22 Q Do you agree with me about that?

23 THE COURT: Wasn't there one that ended in 23  
24 somewhere along the line?

25 MS. CHAITMAN: You know --



1 THE COURT: If you look at that --

2 MS. CHAITMAN: -- there may have been --

3 THE COURT: -- Exhibit 8 --

4 MS. CHAITMAN: Exhibit 8 --

5 THE COURT: -- the two accounts in your -- in the  
6 chart or the 22 account and the 23 account, and I thought  
7 the evidence was that 22 account became 156 or 157 and the  
8 23 account became the other one.

9 MS. CHAITMAN: Right. Right. But -- and before --

10 THE COURT: So what precede -- what preceded the 22  
11 and 23 accounts?

12 MS. CHAITMAN: Okay.

13 BY MS. CHAITMAN:

14 Q Do you -- can you -- I mean, I have an answer of what I  
15 believe, but are you able, Ms. Collura, to tell the judge  
16 what number preceded the 22 and 23?

17 A Yes. So I'm looking at, if I'm able to look back at  
18 exhibit -- Trustees' Exhibit 40 which I think most clearly  
19 lays out the sequence of numbering.

20 THE COURT: Put 40 up there.

21 BY MS. CHAITMAN:

22 Q Okay. So this is 2510 and then 2310 and then 157; is  
23 that right?

24 THE COURT: So the joint account started out as  
25 21510 and then it went to 23 and then it became 1B0157?

1 THE WITNESS: Yes. Correct. Correct.

2 MS. CHAITMAN: Okay.

3 BY MS. CHAITMAN:

4 Q And can you do the same thing for us with respect to  
5 Mr. Blecker's account?

6 A I think you want to pull up exhibit -- Trustees'  
7 Exhibit 36.

8 (Pause)

9 A So this started at 100254. It became 1B0022. And then  
10 when that account closed it was 1B0156.

11 THE COURT: Okay. Ma'am, would you take a look at  
12 Blecker Exhibit 36? Do you have that?

13 THE WITNESS: Yes, I do.

14 THE COURT: And the number on the top is 100214.  
15 So what's that account?

16 THE WITNESS: I don't know. I don't know what it  
17 is. I --

18 (Pause)

19 THE WITNESS: In one of the documents in the  
20 customer file for 1B0023, I'm looking at Trustees' Exhibit  
21 41, there -- it --

22 MS. CHAITMAN: Excuse me. Trustees' Exhibit what?

23 THE WITNESS: I'm sorry. 41.

24 MS. CHAITMAN: 41.

25 THE WITNESS: It's -- the 100214 number does appear

1 at the bottom, but so does 100215. So I can't tell you  
2 sitting here what -- I would have expected that it went with  
3 the number on the front of the file folder, which was the  
4 100215. I'm just not sure about the other one listed there.

5 MS. CHAITMAN: Okay.

6 BY MS. CHAITMAN:

7 Q And now if you would be good enough to look at my  
8 Exhibit 30 which is in the binder.

9 (Pause)

10 Q Now this is for account number 100254-9-0. Do you see  
11 that?

12 A I do.

13 Q And it's -- this is Aaron Blecker's account and this  
14 statement is 10/31/90. Do you see that?

15 A I do.

16 Q And that was long after the account was renumbered  
17 1B0022, isn't that true?

18 A I don't remember exactly what year those numbers went  
19 from numeric -- all numeric to alphanumeric. But if it was  
20 prior to 1990 I -- I'm just -- I'm not sure when that  
21 happened.

22 Q Sure.

23 A I don't remember.

24 Q Let's take a look at Trustee Exhibit 37. Thank you.  
25 This has a handwritten notation on it which says --

1 with initials which says 9/22/86. Do you see that in the  
2 second section?

3 A I do.

4 Q Okay. So clearly the account was numbered 1B0022 as of  
5 1986, right?

6 A That --

7 THE COURT: I'm sorry. Which exhibit are you  
8 referring to?

9 MS. CHAITMAN: We're on Trustee Exhibit --

10 THE COURT: Got it. Okay.

11 BY MS. CHAITMAN:

12 Q So this -- the handwritten notation in the second  
13 section has initials and it says 9/22/86. So as of 9/22/86  
14 it appears that 1B0022-10 had been assigned, isn't that  
15 true?

16 A That's what it looks like based on this document. Yes.

17 Q And yet as of 10/31/90 Madoff was still issuing  
18 statements to Mr. Blecker under 100254. Do you see that?

19 A I do.

20 Q Do you have any explanation for that?

21 A I do not have any explanation, but I can tell you on  
22 this statement there's no cash transactions including PW  
23 transactions so it wouldn't have impacted my analysis.

24 Q All right. But isn't it possible that if we had  
25 available to us a complete set of the statements for this

1 account that it might show deposits into this account of  
2 these PW checks that Mr. Blecker claims he never received?

3 MS. VANDERWAL: Objection.

4 THE COURT: Yeah. That's sustained. Anything is  
5 possible, but I guess the question is does it appear to you  
6 that account statements with wholly numeric numbers were  
7 being issued after the numeric numbers were changed over to  
8 alpha numeric numbers?

9 THE WITNESS: It looks like they were based on  
10 this, although this was a microfilm. So this isn't a  
11 statement that -- it's not the customer statement that would  
12 have been sent to Mr. Blecker. I would be speculating as to  
13 why this was part of the microfilm records of BLMIS.

14 BY MS. CHAITMAN:

15 Q And if you look at Exhibit 31 in the binder this again  
16 is an -- a statement on account 100254-9-0 and it's dated  
17 8/31/93. Do you see that?

18 A Yes, I do.

19 Q Now if we could bring up again the Trustees' Exhibit  
20 38. Thank you.

21 MS. CHAITMAN: Okay. I've asked you for the wrong  
22 exhibit. Let me just find the right one.

23 (Pause)

24 MS. CHAITMAN: If you could bring up, please, the  
25 Trustees' Exhibit 41.

1 BY MS. CHAITMAN:

2 Q Ms. Collura, this is for the joint account. Do you see  
3 that?

4 A Yes.

5 Q And the account number is 1B0023-10. Do you see that?

6 A That's right.

7 Q And then on the bottom it lists those two accounts,  
8 100215 and 100214. Do you see that?

9 A Yes, I do.

10 Q Now there's no indication on here when this account was  
11 started, right?

12 A There's no date --

13 Q Right.

14 A -- indicated anywhere on here. No.

15 Q Right. And in your -- going back to Exhibit 8 to your  
16 chart, did you indicate on your chart in any way what the  
17 account number was so that we could look at the joint  
18 account and figure out when that was started?

19 A There is a column on my attachments for BLMIS account  
20 number. It's the second column on the left-hand side.

21 Q Right.

22 A Yeah.

23 Q But in -- are you saying that in 1985 the account  
24 number was 1B0023? I'm looking at page -- we're looking at  
25 your Exhibit 8, the charts that you prepared with respect to

1 the documentation on the Bleckers. And your first entry is  
2 1982 and you list the account number as 1B0023. Do you see  
3 that?

4 A Yes.

5 Q So does that indicate to you that this document which  
6 we've put on the screen as Exhibit 41, Trustees' Exhibit 41,  
7 must have been dated in 1982 or earlier?

8 A It may be just that our -- for purposes of our analysis  
9 if an -- we may have gone with the alphanumeric number  
10 because as I explained before when it went from an all  
11 numeric number to an alpha numeric number we didn't consider  
12 that like a predecessor or a successor account relationship.  
13 It really was an account number change.

14 Q Okay.

15 A So I think for purposes of us capturing the cash  
16 transactions for any particular account we would have just  
17 used the alphanumeric account number, in this case the  
18 1B0023 regardless of when that number changed for purposes  
19 of our analysis.

20 Q okay. And if I can ask you to go back to trustees'  
21 Exhibit 37, please. Thank you.

22 So this was the document which had 9/22/86 in the  
23 second section of it. Do you see that?

24 A Yes.

25 Q And this was a 1B0022, so this is the alphanumeric

1 numbering system that Mr. Madoff used after he used the pure  
2 numbers, right?

3 A Correct.

4 Q Okay. So at least we know that as of 9/22/86 Mr.  
5 Madoff was switching or had switched accounts to an  
6 alphanumeric system; is that --

7 MS. VANDERWAL: Objection, Your Honor.

8 BY MS. CHAITMAN:

9 Q Is that correct?

10 A Well, if you're just basing that on the date  
11 handwritten on here I would say at least as of '86, but  
12 there's no way to tell for sure when that alpha-numeric --  
13 when the numeric number was crossed out. I can't --

14 THE COURT: I mean --

15 THE WITNESS: -- tell from this document.

16 THE COURT: -- there was an objection. The problem  
17 I'm having with this is we don't know if the date that's  
18 written is the same date that the account number -- the  
19 different account number or the alphanumeric account number  
20 is written -- and, in fact, the handwritings don't even look  
21 alike.

22 In other words, the redacted -- the section that  
23 has redacted could have been added on September 22, 1986.

24 THE WITNESS: So it --

25 THE COURT: But it doesn't tell us when somebody



1 wrote 1B0022-10.

2 BY MS. CHAITMAN:

3 Q So based on the massive review of Mr. Madoff's records  
4 what is your best recollection of when Mr. Madoff switched  
5 to the alphanumeric numbering system?

6 A I honestly, and I apologize, I just don't remember. I  
7 don't remember when that happened. I don't remember what  
8 year it was.

9 Q Well, was it -- do you have any recollection that it  
10 occurred after 1990?

11 A I don't remember the year and, honestly, it wasn't  
12 relevant to my analysis so it wasn't a focus point for what  
13 I -- you know, my reconciliation that was I conducting. It  
14 didn't -- it didn't matter for purposes of what I -- my  
15 analysis.

16 Q Okay. Well, let me show you, if you would be good  
17 enough to look at my binder, Exhibit 20 -- Exhibit 41.

18 (Pause)

19 Q Do you see that?

20 A Yes.

21 Q So here we have a 12/31/91 statement issued by Madoff  
22 to Arthur and Sophie Blecker and the account number is  
23 100215-9-0. Do you see that?

24 A I do.

25 Q Do you have any -- assuming that by 12/31/91 Mr. Madoff

1 had switched to an alphanumeric system and we'll put in  
2 documents that will show that, how can you explain the fact  
3 that statements were being issued to the 215 account number  
4 as of 12/31/91?

5 A Same as before. I'm sorry. I would just be  
6 speculating as to why this was issued. What I see on this  
7 statement or more importantly what I don't see are any PW  
8 transactions so it wouldn't be relevant to my analysis.

9 Q Okay.

10 THE COURT: Let me ask this a different way.  
11 Where is the trustees' determination letter for the account  
12 that this became because that has the dates --

13 THE WITNESS: Sure.

14 THE COURT: -- of the trans -- okay -- of the  
15 transactions.

16 THE WITNESS: Sure.

17 THE COURT: I think it was around 16 or --

18 Now the account -- the one you just showed the  
19 witness, the 215 account. I'm sorry. I'm getting confused.  
20 But this was account B0023, do you recall, according to my  
21 notes?

22 MS. CHAITMAN: The 215 account was also --

23 THE COURT: Well, let's just start there. It  
24 became account --

25 MS. CHAITMAN: 23.

1 THE COURT: -- 23. Is there a determination letter  
2 for that account?

3 MS. CHAITMAN: Right. Yes. In my binder, Your  
4 Honor, it's Exhibit 21.

5 THE COURT: Let me --  
6 (Pause)

7 THE COURT: And there's a table attached. Okay.  
8 This one only shows transactions starting in 2007. Is there  
9 a similar printout for the other account because the other  
10 account goes back to 1986?

11 MS. CHAITMAN: Okay. So the first determination  
12 letter that the trustees sent was September 29th, 2010.

13 THE COURT: What exhibit is that?

14 MS. CHAITMAN: It's Exhibit 21 in my binder.

15 THE COURT: That I have. That --

16 MS. CHAITMAN: Okay. And then he sent out a second  
17 one which is Exhibit 23 in my binder.

18 THE COURT: Okay. And that's the 22 account and it  
19 shows transactions in that account going back to 1981.

20 MS. CHAITMAN: But I point out --

21 THE COURT: I'm sorry. This is mixed up because I  
22 see the 23 account listed there.

23 MS. CHAITMAN: It's very confusing, Your Honor,  
24 because the numbers don't seem to correlate.

25 THE COURT: I don't -- well, I know you put this

1 book together. But I'm looking at the tables that usually  
2 accompany the termination letters. The letter refers to  
3 account 22, but the account information refers to 23.

4 MS. CHAITMAN: I would point out also, Your Honor,  
5 it refers --

6 THE COURT: But -- and this here --

7 MS. CHAITMAN: -- to --

8 THE COURT: -- we -- you know --

9 MS. VANDERWAL: Your Honor --

10 THE COURT: -- whether it's your mistake or their  
11 mistake.

12 MS. VANDERWAL: -- just to try to provide some  
13 clarity there was no claim filed for 1B23 so there is no  
14 determination letter or related schedule for 1B23. The --

15 THE COURT: So --

16 MS. VANDERWAL: -- claim was filed for 1B22.

17 THE COURT: So where did the information --

18 MS. VANDERWAL: So --

19 THE COURT: -- that is attached to what is exhibit  
20 -- Blecker Exhibit 23 --

21 MS. VANDERWAL: So as we have been through 1B0023  
22 became 1B0157 --

23 THE COURT: Right.

24 MS. VANDERWAL: -- for which a claim was filed.

25 And in an effort to explain sort of the permutations --

1 THE COURT: Okay.

2 MS. VANDERWAL: -- of the accounts we provided the  
3 information for 1B0023 to Mr. Blecker.

4 THE COURT: The information provided doesn't seem  
5 to go with the letter, though. That's what --

6 MS. VANDERWAL: Yeah. Well --

7 THE COURT: Unless you have a copy -- a different  
8 copy of the letter and whatever went with it. of course,  
9 there was a -- my recollection was there was a request for a  
10 determination to 1022 and that was the account where there  
11 was \$206,000, I think, left of the balance at the end of the  
12 day in 1997. So where's that letter?

13 MS. VANDERWAL: So if you look at the first  
14 paragraph of the second page of this letter you can see that  
15 we also sort of were trying to explain to Mr. Blecker the  
16 relationship between the accounts.

17 THE COURT: Right.

18 MS. VANDERWAL: And it's -- we seem to be missing  
19 Exhibit A from this letter.

20 THE COURT: Okay. But --

21 MS. VANDERWAL: So there would be an Exhibit A that  
22 dealt with 1B22 which is not here. And --

23 THE COURT: Okay. But then the question is looking  
24 at this you're showing transactions dating back to 1981 in  
25 the 23 account.

1 MS. VANDERWAL: That's correct.

2 THE COURT: But then Ms. Chaitman has shown other  
3 exhibits in her 30s and 40s range which see to show  
4 documents with the predecessor through numeric numbers after  
5 those dates.

6 MS. VANDERWAL: So, again, for the purpose of  
7 preparation of this exhibit I'm not -- or, sorry, of this  
8 schedule they don't appear to have included the all numeric  
9 code because it wasn't like one account transferred to  
10 another. It was the same account --

11 THE COURT: Who --

12 MS. VANDERWAL: -- that we --

13 THE COURT: Who prepared these schedules? It may  
14 be the better thing to just have the person testify as to  
15 how those were put together because we're all speculating.

16 MS. BROWN: Your Honor, if I may for one second.  
17 We -- the -- our next witness that we plan to put on is Mr.  
18 Greenblatt who prepared the principal balance calculations  
19 that list --

20 THE COURT: Okay.

21 MS. BROWN: -- all of the transactions and also  
22 includes information about the predecessor accounts. So I  
23 think this line of questioning is going to be resolved  
24 during that testimony because there are documents that  
25 provide that information in a summary fashion as well as

1 have backup references.

2 THE COURT: All right.

3 (Pause)

4 BY MS. CHAITMAN:

5 Q Now, Ms. Collura, you've testified that you defined the  
6 body of transactions that you were going to analyze as going  
7 from, am I correct 1981 through 2008?

8 A For purposes of the PW transactions?

9 Q Yes.

10 A I think we would have gone back as far as possible and  
11 --

12 THE COURT: I thought that the agreement was that  
13 the trustee took the accounts, whatever they said, as of  
14 1981 as if they were all cash. In other words, that was the  
15 balance and then went forward from there. That's my  
16 recollection. Now whether this witness knows that --

17 THE WITNESS: Okay.

18 THE COURT: -- or not.

19 THE WITNESS: Okay.

20 THE COURT: So even if there were PW transactions  
21 before '81 they weren't deducted from the account --

22 THE WITNESS: Okay.

23 THE COURT: -- balance.

24 THE WITNESS: Okay.

25 THE COURT: Is that -- I'll ask the trustee; is

1 that right?

2 MS. VANDERWAL: That's correct, Your Honor.

3 BY MS. CHAITMAN:

4 Q What was the most recent PW transaction that you found  
5 in your work?

6 A 2000 --

7 THE COURT: For Blecker or for anyone?

8 MS. CHAITMAN: Anyone.

9 THE WITNESS: 2008.

10 BY MS. CHAITMAN:

11 Q There were PW transactions in 2008?

12 A Yes.

13 (Pause)

14 Q And did you understand that the only issue here was PW  
15 transactions?

16 A The issue in this proceeding?

17 Q Yes.

18 A I'm not sure what you mean by issue. I -- my focus was  
19 the PW transactions. My analysis focused on the PW  
20 transactions.

21 Q Right. So then why did you include within your  
22 analysis the cash withdrawal transactions and the JRNL  
23 transactions?

24 A I don't believe that there were any JRNL in the  
25 population of PW transactions as the defined term PW. As I



1 described before there were some CW transactions or  
2 transactions with the CW code that had a similar description  
3 to some of the other PW transactions that we've seen like  
4 the check with the company name or check with something not  
5 just check, something else in the description and we would  
6 have included those as well as part of the defined term, PW  
7 transactions.

8 Q Okay. But you would agree with me that it's much  
9 easier to reconcile transactions when you have the bank  
10 records, isn't that true?

11 A Easier how. Easier than what? I'm sorry.

12 Q Well, is -- isn't it easier to confirm whether there  
13 were transactions if you had the bank records?

14 A The bank records were obviously one source that I used,  
15 but I wouldn't say that those were easier than  
16 correspondence with the other documents that I've testified  
17 about.

18 Q Well, would you agree with me that if we had -- you  
19 understand that Mr. Blecker claims that he never took out  
20 any money from his Madoff accounts, either he or his wife?  
21 You understand that that's his contention?

22 A Yes. That's my understanding.

23 Q And if we had even one check purportedly written to Mr.  
24 or Ms. Blecker and we could look at the back of it we could  
25 figure this out, isn't that true?

1 A Figure -- figure out for Mr. Blecker specifically?

2 Q Yes, whether the check was deposited into his account,  
3 into Mr. Madoff's account, into Frank DePasquale's account,  
4 or thrown in the garbage, right?

5 MS. VANDERWAL: Objection, Your Honor.

6 THE COURT: Sustained. I don't know where  
7 DePasquale or Madoff come from.

8 MS. CHAITMAN: I'm just suggesting to the witness  
9 that without having the check you don't know where it was  
10 deposited.

11 BY MS. CHAITMAN:

12 Q I mean, you testified this morning that you looked at,  
13 was it Marjorie -- Margaret Klatsker (ph) or whatever, you  
14 looked to see -- you verified her signature on the back  
15 where it said, for deposit only?

16 A But my analysis wasn't just on the Blecker account. I  
17 was looking at all --

18 Q No.

19 A -- PW transactions.

20 Q But as a general principle the reason you looked for  
21 the endorsements was you wanted to make sure that the named  
22 payee received the check, isn't that true?

23 A That was relevant for my tracing analysis.

24 Q Yeah.

25 (Pause)

1 Q Now I believe your testimony was that with respect to  
2 the pre-1998 PW transactions you could only confirm 50  
3 percent of them; is that correct?

4 A The over 50 percent was across all time periods, not  
5 just limited to the pre-'98 time period.

6 Q Well, let me be clear. I thought your testimony was  
7 that once you had the bank records for the period from 1998  
8 through 2008 you were able to confirm very close to a  
9 hundred percent, isn't that true?

10 A That's correct.

11 Q Okay. And did you ever calculate what percentage of  
12 the transactions that predated 1998 you were able to  
13 confirm?

14 A I think that was over 50 percent.

15 Q Okay. And of the pre-1998 transactions isn't it true  
16 that over 62 percent constituted transactions with Norman  
17 Levy?

18 A I don't know where you're getting the 62 percent.

19 Q What percent do you recall?

20 A That -- let me make sure I understand. So you're  
21 asking what percent of the pre-1998 PW transactions were  
22 Normal Levy?

23 Q Yes.

24 A I think they -- it was around 50 percent.

25 Q Okay. And Norman Levy, you understood, was a very

1 close friend of Mr. Madoff. Did you understand that?

2 A His relationship had no impact on my analysis.

3 Q I didn't ask that. I asked whether you understood that  
4 Norman Levy had a very close relationship with Mr. Madoff?

5 A Yes. That was my understanding.

6 Q Okay. So when you say that you could verify 50 percent  
7 of the pre-1998 PW transactions, over 50 percent of those  
8 were Norman Levy transactions?

9 THE COURT: Of the verifiable ones?

10 MS. CHAITMAN: Yes.

11 THE WITNESS: Yeah. I'm getting a little confused  
12 with the percentages.

13 THE COURT: Let me do it this time. Pre-December  
14 1998 there were something like 46,000 PW transactions  
15 because there were another 5.5 --

16 THE WITNESS: So -- of the total PW transactions --

17 THE COURT: Yeah.

18 THE WITNESS: -- pre-'98 there was about 85,000.

19 THE COURT: Okay. So it's 85,000. And what Ms.  
20 Chaitman is asking is of those 85,000 approximately 50  
21 percent (indiscernible) on Levy?

22 THE WITNESS: That's right.

23 BY MS. CHAITMAN:

24 Q Okay. And, in fact, if you -- you said in your report  
25 that approximately 47,000 relate to one BLMIS customer

1 account under the name of Norman Levy, right?

2 A That's right.

3 Q Okay. And do you recall that Mr. Levy actually had  
4 other PW accounts in the period from the 80s to 1997 which  
5 had profit withdrawal transactions?

6 A There were other accounts that had the name Levy. I  
7 don't know if there was any specifically just in the name  
8 Norman Levy, but I understand that they were maybe family  
9 members of Norman Levy.

10 Q Right. And did you ever calculate of the total number  
11 of PW transactions that pre-date 1998 how many of those  
12 accounts that you were able to confirm were relatives of  
13 Norman Levy?

14 A I don't remember the exact number. It may have added -  
15 - I would be guessing. You know, maybe two or 3,000.

16 THE COURT: Where -- weren't all the pre-'98  
17 accounts that you reconciled Norman Levy accounts?

18 THE WITNESS: No. That's not right.

19 THE COURT: Because -- what were the numbers that  
20 were just --

21 MS. CHAITMAN: Well, I'm quoting from Ms. Collura's  
22 report. She says --

23 THE COURT: But the total reconciliation was about  
24 51,000?

25 THE WITNESS: Yes.

1 THE COURT: Okay. So -- and 5,500 of those were  
2 post-December '98, right?

3 THE WITNESS: Correct.

4 THE COURT: That leaves about 46,000.

5 THE WITNESS: I think if I -- if I may, if -- I  
6 think what you're asking is how many pre-1998 transactions  
7 that weren't 1L0027 Norman Levy's account, was I able to  
8 reconcile.

9 THE COURT: Let's start with that one.

10 THE WITNESS: That was about 7,000 PW transactions.

11 BY MS. CHAITMAN:

12 Q And of those 7,000 how many were Norman Levy's  
13 relatives?

14 A I can't tell you sitting here today. I could -- if I  
15 had my file I could calculate it. I didn't calculate it for  
16 preparation for today.

17 Q Well, you testified on direct that Mr. Levy delivered  
18 or someone on his behalf, I think he had died, but Mr. --  
19 somebody delivered to the trustee all of Mr. Levy's bank  
20 records, right?

21 A His bank records were produced to the trustee. Yes.

22 Q Right. So you had a way of verifying that the account  
23 holder received the money by looking at the account holder's  
24 bank records, isn't that true?

25 A Yes, for Mr. Levy. Correct.

1 Q And also for his relatives?

2 A I don't remember if there were -- if those bank records  
3 included ones for his relatives or if it was his account at  
4 JPMorgan.

5 Q Now I would like you to take a look at Exhibit 48 in my  
6 binder.

7 (Pause)

8 Q Do you have it open?

9 A Yes.

10 Q Okay. Did you ever see -- this is not a color copy,  
11 but did you ever see the checks that Mr. Madoff sent to  
12 customers still attached to the voucher that he sent to the  
13 customers?

14 THE COURT: Is the voucher the top part?

15 MS. CHAITMAN: The voucher is the top part, Your  
16 Honor.

17 THE WITNESS: Not very often. I've definitely seen  
18 some, but not very often.

19 BY MS. CHAITMAN:

20 Q Okay. But you remember that he had that format. It  
21 was a -- it was a piece of paper the size of this Xerox and  
22 it was -- it had a serrated edge above Bernard L. Madoff and  
23 the customer could tear off the bottom and deposit the check  
24 and then the customer could keep the top part?

25 A I've only ever seen copies so I -- I'm -- I'm assuming

1 that that line is a serrated edge.

2 Q Okay. Okay. But you've seen copies of this, right?

3 A Yes.

4 Q Okay. And in the course of your research did you come  
5 across the -- any checks like this which -- where there was  
6 no record that the customer had deposited the check?

7 THE COURT: You mean there was a voucher on the  
8 records, but --

9 MS. CHAITMAN: There was -- that Madoff had --

10 THE COURT: What --

11 MS. CHAITMAN: -- a record -- Madoff --

12 THE COURT: I don't understand because I thought  
13 the customer would have the voucher.

14 MS. CHAITMAN: Right. But there was a duplicate of  
15 it that was kept in Madoff's files.

16 THE COURT: Well, do you know that?

17 THE WITNESS: I'm not sure I understand the  
18 question.

19 THE COURT: Was there a duplicate of the voucher  
20 portion of the check maintained in the BLMIS files?

21 THE WITNESS: The voucher portion, the top portion  
22 are you referring to?

23 THE COURT: Yes.

24 THE WITNESS: Yes. I believe those were maintained  
25 in his files.



1 MS. CHAITMAN: Okay.

2 BY MS. CHAITMAN:

3 Q And in the course of all of your work did you ever find  
4 that, in fact, a check was charged against the customer's  
5 account, but had not been cashed by the customer?

6 A Well, I did not have copies of canceled checks for all  
7 of the PW transactions or cash transactions for that matter.  
8 If I had a copy of the canceled check that showed me that  
9 the check was deposited somewhere.

10 Q Somewhere.

11 A Sometime -- most of the time I had the information to  
12 trace where it went. Sometimes I didn't.

13 Q Okay. And if the customer -- if you would be good  
14 enough to look at -- this check is dated December 17th, 1991  
15 and it is for \$4,226. Do you see that?

16 A I do.

17 Q And 20 cents. And then if you look at Exhibit 49 do  
18 you see that on 12/17 there's a charge for a check mark for  
19 PW 4,226.20. Do you see that?

20 A I do.

21 Q And do you see that that was charged against the  
22 customer's account?

23 A Yes. It was a -- in the debit column. Correct.

24 Q Okay. And did you have any way of determining whether,  
25 in fact, the customer received and deposited that check?

1 A I wouldn't have had the BLMIS bank records for this  
2 time period for 1991. So, no.

3 Q Right. So if a customer -- if a check was made out to  
4 Mr. Blecker and it was sent to somebody else, unless you had  
5 the actual bank record you had -- you would have no way of  
6 knowing who cashed that check, isn't that true?

7 A If I didn't have a copy of the canceled check?

8 Q Yes. Without having a copy of the -- without seeing  
9 the back of the canceled check, how would you know where the  
10 check was deposited?

11 A I wouldn't, unless I had the accountholders personal  
12 bank records.

13 Q Okay.

14 (Pause)

15 Q Now, you've testified that you reviewed all the  
16 depositions of the Madoff employees?

17 A In this PW proceeding, yes.

18 Q And did you agree with the -- I believe you testified  
19 on direct that you generally agreed with their testimony, is  
20 that --

21 A Yes, correct.

22 Q Okay. And do you generally agree with the proposition  
23 that --

24 MS. VANDERWAL: Objection, Your Honor. Ms.  
25 Chaitman is mischaracterizing the testimony of Ms. Collura.

1 THE COURT: No, she said she read -- she ticked  
2 off the people whose depositions she read, the recent  
3 depositions -- and let me just see, because I wrote it down.

4 (Pause)

5 THE COURT: I can't find it offhand, but --

6 MS. VANDERWAL: My point was --

7 THE COURT: -- she -- I think she generally said  
8 that she -- there is nothing that she read that caused her  
9 to change her opinion.

10 MS. VANDERWAL: That changed her conclusions --

11 THE COURT: Yeah, all right.

12 MS. VANDERWAL: -- correct.

13 THE COURT: Why don't you rephrase the question  
14 that way?

15 BY MS. CHAITMAN:

16 Q You testified this morning as to which of the Madoff  
17 employees' depositions you had read and your test -- well,  
18 do you remember exactly what you said? I don't have a note  
19 of exactly what you said. I thought you said that generally  
20 agreed with what --

21 A I think I said that there was -- the -- there was  
22 nothing that I read in those transcripts that caused me to  
23 change my conclusions --

24 THE COURT: My notes --

25 THE WITNESS: -- or opinions.

1 THE COURT: -- my notes indicate that she  
2 testified that their testimony supported --

3 THE WITNESS: Yeah, that's --

4 THE COURT: -- her conclusions.

5 THE WITNESS: -- if anything, it supported my  
6 conclusions.

7 BY MS. CHAITMAN:

8 Q Okay. Are you able to tell us, focusing on the non-  
9 Norman Levy, pre-1998 PW transactions, right?

10 A Okay.

11 Q So we're talking about, I think you said, 5,000?

12 A I said that there were 7,000, around 7,000 that I was  
13 able to reconcile.

14 Q Seven thousand that you were able to reconcile? And  
15 how many were you not able to reconcile?

16 A So I would have to kind of back into that number. So  
17 if there's 91,000 total, less -- let's -- for ease of math,  
18 let's say 5,000 in the ten-year time period. So, 91 less is  
19 86,000, approximately 86,000 prior to the ten-year time  
20 period. For Norman Levy specifically, there were 47,000 of  
21 the 91.

22 Q Right.

23 A About 4,000 of those were in the ten-year period. So  
24 that leaves approximately 43,000 Levy -- Norman Levy  
25 transactions prior to the ten-year period. So there's a

1 total -- just to summarize --

2 THE COURT: Exactly half?

3 THE WITNESS: It's exactly half. I didn't mean  
4 for that to happen, but it's half. So just to summarize it,  
5 prior to the ten-year period, there was approximately 85 --  
6 86,000, and 43,000 of those were in Norman Levy's account,  
7 1L0027.

8 BY MS. CHAITMAN:

9 Q Okay. So the other 43,000 were non-Norman Levy, pre-  
10 1998 accounts?

11 A Yes.

12 Q Okay. And we will put aside the issue of Norman Levy's  
13 relatives, okay? It's in your charts, because you have a  
14 lot of Levy accounts listed that there are not Norman Levy,  
15 but let's put that aside. Of the 43,000, how many were you  
16 able to reconcile to any documentary evidence?

17 A Approximately 7,000.

18 Q So that means that there were 36,000 that you were not  
19 able to reconcile?

20 A 43,000 less 7,000 is --

21 Q Okay.

22 A -- 36,000.

23 Q Okay.

24 A I'm not very good with math in my head, even though I'm  
25 an accountant.

1 Q Okay. But is it fair to say that with respect to the  
2 ones you did reconcile that there were in many instances  
3 letters in the account -- in the files from the customers  
4 asking for the profit withdrawals?

5 A It could have been letters asking for the profit  
6 withdrawals, it could have been letters requesting that the  
7 profit withdrawals stop, it could have been accounting  
8 schedules, it could have been bank records that were  
9 produced by the accountholders.

10 Q Okay. If you'd be good enough to look at my Exhibit  
11 60?

12 (Pause)

13 Q Do you see this? It's a letter from Alan Gordon and  
14 it's to Erin Reardon, who worked for Madoff. And it says,  
15 "As per our conversation today, please establish my above-  
16 referenced account so that all earnings are distributed to  
17 me on a quarterly basis," do you see that?

18 A I do.

19 Q Okay. And was it your understanding that Mr. Madoff  
20 required customers to make requests in writing when they  
21 wanted withdrawals?

22 A I believe that that was part of his testimony.

23 Q Yes.

24 A I also remember reading that he clarified that to say  
25 that not every single withdrawal, if it was establishing a

1 consistent profit withdrawal or quarterly withdrawal that he  
2 didn't require every single one --

3 Q Right. So, in other words --

4 A -- to be in writing.

5 Q -- is it fair to say -- and I don't want to put words  
6 in your mouth, but is it fair to say that if someone was  
7 writing in, saying I'd like to get my profit withdrawals  
8 every month, he wouldn't have to write every month, right?  
9 He would just write that letter and then, until he notified  
10 Madoff otherwise, that was pattern?

11 A That was my understanding of Mr. Madoff's clarification  
12 in his deposition, yes.

13 Q Okay. Now, you explained when you were questioned this  
14 morning what your hourly rate was, but can you tell the  
15 Court approximately how much money your firm, FTI, has been  
16 paid in connection with the profit withdrawal work?

17 A I don't know the number of just the fees associated  
18 with the PW work.

19 Q Well, do you have -- is it \$20,000, is it \$2 million?  
20 Are you able to enlighten us at all about that?

21 A I couldn't even guess.

22 Q Well, how many people, to your knowledge, worked with  
23 you on this?

24 A My team consisted of five to six staff or professionals  
25 working under my supervision for the PW-specific analysis.

1 Q And how much time would you estimate that you put into  
2 the PW transactions?

3 A I don't think I could even guess, I couldn't even -- if  
4 I said an answer, it would be purely guessing.

5 Q Well, what percentage of your time over the last five  
6 years have you spent on it, approximately?

7 A On PW?

8 Q Yes.

9 A So I started in 2015 -- it's so hard to say, because  
10 the -- what else is included in my PW reports is my global  
11 reconciliation and that would have spanned?

12 Q Your -- I'm sorry, your what?

13 A My global reconciliation, and that would have spanned  
14 all the way back to the start of the investigation. So it's  
15 very -- it's nearly -- it's impossible to pull out time just  
16 specific to the PW proceeding.

17 Q And what about the people who work for you on this, on  
18 the PW analysis?

19 A Well, are you asking how much time they spent?

20 Q Yes.

21 A I would have the same answer, I think it's impossible  
22 to pull out or segregate because, you know, part -- what was  
23 part of my PW analysis was part of that initial, what I  
24 refer to as the global reconciliation.

25 Q And what was the global reconciliation?



1 A That's where I looked at all cash transactions for all  
2 customer accounts in both cash deposits and withdrawals and  
3 reconciled 99 percent of those 225,000 cash transactions to  
4 available bank records.

5 Q Okay.

6 MS. CHAITMAN: I have no further questions. Thank  
7 you very much.

8 THE COURT: Before you stand up, are there any  
9 other participating claimants here not represented by Ms.  
10 Chaitman who want to question the witness?

11 The record should reflect there's no response.

12 Redirect?

13 MS. VANDERWAL: Thank you.

14 REDIRECT EXAMINATION

15 BY MS. VANDERWAL:

16 Q Ms. Collura, Ms. Chaitman asked you some questions  
17 about the accounts held by Mr. Levy, do you remember that?

18 A Yes.

19 Q Did the profit withdrawal transactions in the Levy  
20 account appear to differ from those you saw in any other  
21 account?

22 A No.

23 Q So, as a forensic accountant, would you have a reason  
24 to treat those transactions differently?

25 A No.

1 Q You testified today that you reviewed bank records,  
2 customer statement data, customer files, and documents  
3 produced to the trustee; is that correct?

4 A That's correct.

5 Q Approximately how many documents would that be?

6 A Tens of thousands of documents.

7 Q And in all those documents, did you see a single  
8 document suggesting that profit withdrawals are anything  
9 other than a withdrawal from a customer account?

10 A No. The documents that I reviewed and saw were  
11 consistent with treating profit withdrawals as withdrawals  
12 from the customer account.

13 Q Thank you.

14 MS. VANDERWAL: That's all I have, Your Honor.

15 THE COURT: One question. Do you recall whether  
16 in connection with your global reconciliation, and aside  
17 from the PW transactions and the cash deposits, you saw any  
18 cash transactions relating to the Blecker accounts at any  
19 time, including after 1998?

20 THE WITNESS: I don't remember if he had any cash  
21 transactions after 1998, I don't -- I know there weren't any  
22 PW transactions. I want to say there were no transactions  
23 after 1998; if there were, I don't remember that Blecker was  
24 one of the ones that I was not able to reconcile. But I  
25 don't -- I know there weren't any PW, I just -- I can't

1 recall when if he had other withdrawals reflected on his  
2 customer statements after 1998.

3 THE COURT: Okay, thank you. You can step down.

4 MS. CHAITMAN: Your Honor, I can represent to Your  
5 Honor that there were no withdrawals after, and that's  
6 evidenced by the determination letters. You could look at  
7 the determination letters, which list all the withdrawals,  
8 and you'll see that in his accounts there were no  
9 withdrawals after the alleged PW withdrawals.

10 THE COURT: Thank you. Call your next witness,  
11 please.

12 MS. COLLURA: Do you want me to leave this binder  
13 up here?

14 THE COURT: Why don't you just leave it there?

15 MS. CHAITMAN: If you would. Thank you so much.

16 MS. BROWN: Your Honor, the Trustee would like to  
17 call Matthew Greenblatt.

18 THE COURT: Okay. Raise your right hand, please.

19 MATTHEW GREENBLATT, WITNESS, SWORN

20 THE COURT: Please take a seat and speak into the  
21 microphone.

22 DIRECT EXAMINATION

23 BY MS. BROWN:

24 Q Good afternoon, Mr. Greenblatt.

25 A Good afternoon.

1 Q Could you please introduce yourself to the Court?

2 A My name is Matthew Greenblatt, I'm a senior managing  
3 director with FTI Consulting in the forensic and litigation  
4 consulting group.

5 Q And why are you here today?

6 A I'm here today to talk about FTI's work in the  
7 reconstruction of the debtor's books and records and the  
8 accumulation of all of the cash and principal transactions  
9 from the debtor's books and records.

10 Q Can you describe your educational background?

11 A I graduated from Lehigh University in 1994 with a  
12 Bachelor of Science degree in accounting.

13 Q And where have you worked since you graduated?

14 A I began my career in auditing at Price Waterhouse, I  
15 was there for four years, and then joined a litigation  
16 consulting firm called Kahn Consulting, which was acquired  
17 by FTI in September of 1998, and I've been with FTI since  
18 September of 1998.

19 Q Are you a member of any professional associations?

20 A I am. I'm a member of the American Institute of CPAs,  
21 the New York State Society of CPAs, and the Association of  
22 Certified Fraud Examiners.

23 Q And what are your professional certifications?

24 A I'm a certified public accountant, I'm certified in  
25 financial forensics, and I'm a certified fraud examiner.

1 Q And how many years have you worked on forensic  
2 accounting investigations?

3 A Since I began at FTI in 1998.

4 Q You also teach in the area of accounting, forensic  
5 accounting, is that right?

6 A I do, yes.

7 Q And can you tell us about your teaching experience?

8 A So I've been teaching since about 2006. I am a  
9 recurring member on a variety of panels at the Practicing  
10 Law Institute, covering all areas of accounting for  
11 practicing attorneys, and I have been adjunct professor at  
12 NYU in their School of Continuing Studies in their forensic  
13 accounting certificate program.

14 Q What types of records do you normally look at in your  
15 forensic accounting investigations?

16 A It obviously varies from project to project and company  
17 to company, but generally speaking it's all of the financial  
18 and accounting books and records, as well as bank records  
19 and other electronic documents.

20 Q How many expert reports have you submitted as a  
21 forensic accountant?

22 A Over the years, I have submitted about 150 in the  
23 Madoff matter and then, I would say, 20 or 25 non-Madoff-  
24 related matters over my career as an expert.

25 Q Have you been deposed as an expert witness before?

1 A I have, yes.

2 Q How many times have you been deposed as an expert?

3 A Over the last seven years, I've been deposed four  
4 times, and prior to seven years there were three others.

5 Q Have you testified as an expert in forensic accounting?

6 A I have, yes.

7 Q And what was that matter about?

8 A So I testified in federal court in Connecticut in  
9 connection with the matter SEC v. Francisco Illarramendi and  
10 the Michael Kenwood Group, and that was a Ponzi scheme and I  
11 was asked to testify about the flow of funds in the Ponzi  
12 scheme.

13 Q Are you being compensated for your time, Mr.  
14 Greenblatt?

15 A FTI bills at an hourly rate for my time.

16 Q And what is that hourly rate?

17 A Currently, the hourly rate is \$637 an hour.

18 Q Do you have a financial interest in the outcome of this  
19 litigation?

20 A No, I have no -- no compensation is tied to the outcome  
21 of this case, no personal compensation.

22 Q When did you become involved in this matter?

23 A I was --

24 Q I'm sorry, in the Madoff matter overall.

25 A I began working when FTI was first hired in December of

1 2008.

2 Q And what did the Trustee ask FTI to do?

3 A So, overall, the Trustee asked FTI to assist with the  
4 reconstruction of the debtor's books and records and the  
5 analysis of the cash-in-and-cash-out activity within  
6 customer accounts. I was specifically asked to lead the  
7 team that did the principal balance calculations, which was  
8 the accumulation of all of the cash transactions recorded on  
9 customer statements, and other debtor's books and records.

10 Q Did you rely on your background in forensic accounting  
11 to perform the work you just described?

12 A Yes, I did.

13 Q Did you work with a team to conduct your analysis?

14 A Yes, I worked with a small group of people over the  
15 years, yes.

16 Q Have you reached any conclusions with respect to the  
17 profit withdrawal -- I'm sorry, with respect to the  
18 principal balance calculations?

19 A Yes. Overall, my conclusion is that the cash activity  
20 recorded on the customer statements was consistently  
21 recorded by the debtor, and that those cash entries recorded  
22 on BLMIS customer statements accurately reflected the debits  
23 and credits charged to customer accounts and are properly  
24 applied in the principal balance calculation to determine  
25 every customer's principal balance.

1 Q Have you reached any conclusions with respect to the  
2 profit withdrawal transactions?

3 A Yes. The profit withdrawal transactions from the  
4 outset of the work done to reconstruct the books and records  
5 were a subset of the overall withdrawal transactions, and  
6 the profit withdrawal transactions were consistently  
7 recorded as debits in the debtor's books and records as  
8 reductions to the equity reported in customer accounts and  
9 are properly reflected as debits or reductions to the  
10 principal in the principal balance calculation.

11 Q Thank you.

12 MS. BROWN: Your Honor, at this time I'd like to  
13 proffer Matthew Greenblatt as an expert in forensic  
14 accounting.

15 THE COURT: Any objection?

16 MS. CHAITMAN: No --

17 THE COURT: Okay, he's quali --

18 MS. CHAITMAN: -- just my general -- my general  
19 objection based on the motion, et cetera.

20 THE COURT: He's qualified. Go ahead.

21 MS. BROWN: Thank you, Your Honor.

22 BY MS. BROWN:

23 Q Mr. Greenblatt, you've mentioned a principal balance  
24 calculation, could you describe what that is?

25 A Yes, the -- one of the original tasks that I was given



1 was to analyze the cash-in and cash-out records from BLMIS  
2 books and records and the principal balance calculation is  
3 the accumulation of all of the cash and principal  
4 transactions recorded on the debtor's books and records. We  
5 have prepared chronological listings of all of those cash  
6 and principal transactions to quantify each account at  
7 BLMIS, the principal balance in those accounts based on cash  
8 in, cash out at all relevant points in time.

9 Q And how are the principal balance calculations used in  
10 this liquidation?

11 A The principal balance calculations are used by the  
12 Trustee and his professionals and his counsel to identify  
13 how much principal accounts had in -- customers had in their  
14 account as of December 11th, 2008 in order to make claims  
15 determinations under CIPA (ph) for net equity.

16 Q Did the Trustee provide you with any assumptions when  
17 you were calculating the principal balances of the BLMIS  
18 accounts?

19 A Yes, I was told to calculate all of the -- to calculate  
20 principal balance based on cash in and cash out and to  
21 exclude any purported trading that was included on the  
22 debtor's books and records, including any fictitious gains  
23 or -- gains or losses on those statements. Also, I was told  
24 to assume a starting point for the calculation as of April  
25 1, 1981.

1 Q And how did that starting point work with your  
2 principal balance calculation?

3 A So the -- for accounts that were opened prior to April  
4 of 1981, we granted an initial principal credit as if that  
5 was the amount -- the amount reported on a customer  
6 statement as of March 31, 1981 was used as the starting  
7 point for those accounts that were opened prior to that  
8 date, and so for those customers that was the starting point  
9 for the calculation.

10 Q Do you know about how many accounts were opened prior  
11 to 1981?

12 A I believe it was -- 388 is my recollection of the  
13 number of accounts that received a principal credit.

14 Q And for all the other accounts that were opened after  
15 that date, what did you use as the starting point in those  
16 principal balance calculations?

17 A The starting point for all of the other accounts were  
18 their initial deposit into their account, which was usually  
19 either in the form of a cash deposit or a transfer in from  
20 another preexisting BLMIS account.

21 Q Can you describe the inflows of the principal balance  
22 calculation?

23 A Yes. So typically the inflows in the principal balance  
24 calculation fell into two primary categories, which were the  
25 customer deposits and the inter-account transfers of valid

1 principal from preexisting BLMIS accounts.

2 Q And what are the outflows of the principal balance  
3 calculation?

4 A There were primarily three outflows: one was customer  
5 withdrawals, a second was inter-account transfers of  
6 principal out to other BLMIS accounts, and then the third  
7 was there were certain foreign accountholders who had  
8 amounts withheld from their account and paid to the IRS for  
9 reported or supposed tax obligations.

10 Q You've mentioned several times inter-account transfers.  
11 How did inter-account transfers work with your principal  
12 balance calculation?

13 A There were many instances of inter-account transfers  
14 within BLMIS and in order to identify how much principal was  
15 the proper amount to move from one account to the other, we  
16 needed to review and essentially reconstruct the books and  
17 records of all accounts back to the very beginning, so that  
18 we can determine how much principal was in the transferor's  
19 account as of the time of the inter-account transfer. And  
20 so, depending on how much principal was in the account, that  
21 would be whether or not the principal would move from  
22 account A to account B.

23 So, essentially, an inter-account transfer could be one  
24 of three things: it could be all principal, if there was  
25 enough principal in the account to cover the amount

1 reported; it could be all fictitious profits and, if the  
2 account had no principal at the time, no money would move  
3 over in the principal balance calculation from account A to  
4 account B; or it could be a combination of principal and  
5 fictitious profits if there was some principal in the  
6 account, but not enough to cover the amount of the reported  
7 transfer. So it was one of those three things.

8 Q What BLMIS records did you primarily rely upon for your  
9 principal balance calculations?

10 A The debtor's books and records that I primarily used  
11 was the BLMIS customer statements for each customer.

12 Q And why did you use those as your primary source?

13 A The customer statements represented the most extensive  
14 document that was available. It also was the document that  
15 was -- that contained the most information regarding  
16 transaction dates, transaction amounts, transaction  
17 descriptions, transaction codes. It also was the document  
18 that was printed and mailed to customers, so it was a  
19 document that was verifiable to some degree by the  
20 customers, because customers would be able to identify  
21 whether or not they had made a deposit or they had made a  
22 withdrawal. And so, for those reasons, I felt it was the  
23 most reliable, specifically with respect to the cash and  
24 principal transactions only.

25 Q How many years of customer statement data is available

1 to you?

2 A We have the customer statements for that time period  
3 from 1981 through November of 2008. And the customer  
4 statements were available in two different forms within  
5 BLMIS. We had electronic customer statement data, some of  
6 which we've seen in the exhibits today. From the period  
7 December 1995 through November of 2008, we had the  
8 electronic customer statements maintained on the BLMIS  
9 servers, and for the periods prior to December of 1995, the  
10 customer statement data was available on microfilm. And  
11 then, additionally, there was a third group of customer  
12 statements that was the statements produced back to the  
13 trustee by claimants or accounts in litigation.

14 Q Okay. And can you tell us the specific items on the  
15 customer statements that you used to calculate principal  
16 balance?

17 A Yes. So the exercise that my team and I did was to  
18 identify the cash and principal transactions from those  
19 customer statements. As I mentioned, the customer  
20 statements contained relevant data that was used to identify  
21 the cash and principal transaction. And so we essentially  
22 obtained from the customer statements the transaction date,  
23 a transaction description, the transaction code that was  
24 applied by BLMIS, and the amount.

25 Q You just mentioned transaction codes. Is it common for

1 you as a forensic accountant to find that companies use  
2 codes and descriptions to report their financial  
3 transactions?

4 A Yes. It obviously varies from one company to another,  
5 but all companies use a chart of accounts or a coding system  
6 for their recordkeeping. So, not only is it common, it's  
7 expected.

8 Q And were there any BLMIS documents that defined the  
9 different transaction codes used by BLMIS?

10 A Yes, there was an instruction manual called the House  
11 17 Manual that outlined each of the codes used for the  
12 recordkeeping.

13 MS. BROWN: Could we put up Trustee's Exhibit 80?

14 BY MS. BROWN:

15 Q Mr. Greenblatt, can you identify this document?

16 A Yes, this is the House 17 Manual that I was just  
17 referring to.

18 MS. BROWN: If we could turn to page 10, Shannon?

19 Thank you.

20 BY MS. BROWN:

21 Q Mr. Greenblatt, what is this page?

22 A As you can see from the title of the document, this is  
23 the transaction codes that were used within BLMIS's  
24 recordkeeping on customer statement activity.

25 Q Okay. And which codes do you see on this document that

1 you used in your principal balance calculation?

2 A The top five rows, which have just been highlighted,  
3 are typically the codes that would be used for the cash and  
4 principal transactions --

5 Q Okay.

6 A -- in some way.

7 Q Let's take them one at a time, starting with CA; can  
8 you tell us what that code refers to?

9 A Yes, so the third one listed there is the code CA,  
10 which as you can see is shorthand for capital additions.  
11 These were -- and from the second column you can see the  
12 journal entry type is CR, which stands for credit. So these  
13 were typically recorded as credits in the customer accounts  
14 or increases to their reported equity and they were used for  
15 cash deposits.

16 Q And how did you treat CA transactions in your principal  
17 balance calculation?

18 A So when the CA code was used on a customer statement,  
19 that was one of the line items that we accumulated in the  
20 chronological listings of all cash and principal  
21 transactions. And as these were credits, recorded as  
22 credits within BLMIS's books and records, they were used as  
23 credits or inflows and additions to principal in the  
24 principal balance calculation.

25 Q Can you tell us what CW stands for?

1 A Yes. You can see that CW is shorthand for capital  
2 withdrawals and those were -- in this situation, DR stands  
3 for debit, and so these are debited to customer accounts for  
4 these withdrawals.

5 Q And can you tell us what the code PW stands for?

6 A Yes, in this case it refers to profit checks, but on  
7 other documents PW stands for profit withdrawal.

8 Q And what does the term withdrawal mean?

9 A Generally speaking, withdrawal just means taking money  
10 out of an account.

11 Q How did you treat CW and PW transactions in your  
12 principal balance calculation?

13 A They were both treated as withdrawals and they were  
14 both, as you can see here, they were recorded by BLMIS as  
15 debits to the account, as reductions to an account's  
16 reported equity, and they were treated as outflows and  
17 debits and reductions to the principal balance.

18 Q Can you tell us what the code JRNL stands for?

19 A Yes, that is shorthand for journal or journal entry.

20 And you can see that those are both used as debits and  
21 credits. These are quite common in a company's bookkeeping  
22 when the first description there under entry type says  
23 adjustments. These are very common in situations where  
24 adjustments, manual adjustments need to be made for  
25 bookkeeping. So the JRNL credit was used mostly for



1 adjustments if there were voided transactions that needed to  
2 be reissued, but it was typically used for capital additions  
3 or the first deposit in customers' accounts were usually  
4 coded with a JRNL.

5 Q And how did you treat JRNL transactions in your  
6 principal balance calculation?

7 A Because they were not uniformly cash transactions, each  
8 JRNL transaction was analyzed independently to determine  
9 whether or not it was adjusting a particular cash  
10 transaction or a purported trading transaction. So each  
11 JRNL was reviewed to determine whether or not it was a cash  
12 or principal transaction. The JRNLs that were used to open  
13 new accounts were all treated as the initial deposit and  
14 were given a credit in the principal balance calculation,  
15 but every other JRNL was then analyzed and used as  
16 appropriate.

17 MS. BROWN: If we could turn to page 32 of this  
18 document?

19 BY MS. BROWN:

20 Q Mr. Greenblatt, can you tell us what this record tells  
21 you about how BLMIS treated checks?

22 A Yes. So this page is an overall instruction to the  
23 employees doing data entry input, and so you could see at  
24 the very top it's reflecting the checks coming in and checks  
25 going out and then under the check codes column it gives a

1 little more description of what each of the codes represent.  
2 So it says PW is a profit withdrawal, the CW is a capital  
3 withdrawal, and the CA is a capital addition.

4 Q Okay.

5 A And then at the bottom of the screen there you see the  
6 relevant portion for the bookkeeping and the accounting  
7 entries are that the PWs -- and that's the debit transfers  
8 -- and the CWs, the capital withdrawals, are punched as  
9 debits and the CAs are punched as credits, which means that  
10 the profit withdrawal and capital withdrawal transactions  
11 were both treated the same as debits to a customer's  
12 account, meaning reductions to their reported equity, and  
13 the CAs were recorded as credits to the account, meaning  
14 increases.

15 MS. BROWN: If we could turn to page 33 of this  
16 document?

17 BY MS. BROWN:

18 Q Was there any information on this page about the  
19 transaction codes used by BLMIS?

20 A It was consistent with what I have just described,  
21 which is the check in is -- are those checks coming into  
22 BLMIS. Those are capital additions, new money coming in  
23 from customers, and so checks being received were treated as  
24 capital additions and increases to equity, and checks going  
25 out were using those codes of profit withdrawal and capital

1 withdrawal. And on the bottom you can see that the capital  
2 additions are -- where it says "therefore, you will usually  
3 have three sets of checks daily," the first group are the  
4 capital additions, which are the checks coming in from  
5 customers on a given day, then the profit withdrawal  
6 transactions is separated into those checks from the Levy  
7 account, which we spoke about -- or which there was  
8 testimony about, and then the third line item there is the  
9 accumulation of all of the withdrawal transactions, capital  
10 withdrawals and profit withdrawals indicating checks going  
11 out for the next working day.

12 Q And was the information we've discussed from Trustee's  
13 Exhibit 80, the House 17 Manual, was that consistent with  
14 how PW, CW and CA transactions appeared on the customer's  
15 statement?

16 A Yes, all of the CAs were recorded as credits and all of  
17 the CWs and PWs were debits or reductions to reported  
18 equity.

19 Q Did you find that BLMIS reported its cash and principal  
20 transactions in a similar manner on the statements during  
21 the time period for which we have the customer statements?

22 A Yes, throughout the entire time period; yes.

23 Q I'd like to turn to the profit withdrawal transactions  
24 specifically. When did you first become aware of profit  
25 withdrawal transactions?

1 A So from the beginning of the reconstruction of the  
2 books and records they were included within all of the cash  
3 and principal transactions. So I was aware of the profit  
4 withdrawal transactions and the capital withdrawal  
5 transactions and all of them from the very beginning.

6 Q Were you asked to supplement your earlier analyses to  
7 focus on PW transactions specifically?

8 A Yes, as a result of some of the issues raised in this  
9 hearing, I was asked by counsel to perform further analyses  
10 on the profit withdrawal transactions and I've issued three  
11 reports as a result.

12 Q And in the course of preparing your three reports did  
13 you become aware of anything that changed your opinions  
14 about PW transactions?

15 A No. In fact, the more analysis I did on PW  
16 transactions specifically, the more it just corroborated and  
17 confirmed my opinions that the profit withdrawal  
18 transactions are properly reflected as debits.

19 Q When you began looking at profit withdrawal  
20 transactions for this proceeding, where did you start your  
21 analysis?

22 A With the customer statement data that was used to  
23 prepare the chronological listings for each individual  
24 account.

25 Q And on that customer statement data was there any type

1 of transactions that you focused on to analyze the profit  
2 withdrawal transactions?

3 A Yes. So with each profit withdrawal transaction, the  
4 first analysis that I did was to identify what the -- if it  
5 was a profit withdrawal, what trading might have been  
6 reported to generate such a profit that would be then  
7 withdrawn by the account.

8 Q And what -- excuse me -- did PW transactions tie to the  
9 reported trading?

10 A Yes, they did.

11 Q I'd like to show you what's been marked as Trustee  
12 Exhibit 81. Mr. Greenblatt, can you identify this document?

13 A Yes, this is the March 1995 customer statement for the  
14 Aaron Blecker account numbered 1B0022. This is one of the  
15 customer statements that was produced back to the trustee by  
16 the accountholder.

17 Q And looking at Mr. Blecker's statement, can you  
18 identify a PW transaction?

19 A Yes, there is -- on March 14th, there is a profit  
20 withdrawal transaction under the -- with the description  
21 "check aluminum," and in the -- you can see it's got the PW  
22 code and in the amount debited to your account column you  
23 can see that the account is debited \$2,784.

24 Q And were you able to tie that transaction to any  
25 purported trading in aluminum?

1 A Yes. So the exercise was to see, you know, why there  
2 was a profit withdrawal transaction for 2,784 and see if  
3 there was any trading that I could tie to that number with  
4 respect to the security name or the company name listed in  
5 the description. So I looked back over the February and  
6 March time frame and identified the trading reported on  
7 these statements associated with aluminum and was able to  
8 identify the trading that generated that profit as reported.

9 Q Let's turn to Trustee Exhibit 82. Mr. Greenblatt, can  
10 you identify the transactions that you analyzed on this  
11 statement?

12 A Yes. So as I mentioned, this is the customer statement  
13 for the month ended February 1995 for the 1B0022 account,  
14 and you can see from the reported trading -- or from the  
15 activity on this customer statement there was a trade  
16 reported on February 13th in the security titled Aluminum  
17 Company of America, it was the purported purchase of 2,484  
18 shares for a cost, an amount debited to the account of  
19 202,446. And then you can see that at the end of that month  
20 those 2,484 securities were listed as held, allegedly held  
21 in the account under the securities positions column, the  
22 2,484 shares are then in the account as reported as of the  
23 end of February.

24 Q Let's turn back to Trustee Exhibit 81. Can you  
25 identify the purported trading transactions that you

1 analyzed in connection with the prior transactions?

2 A Yes. So on March 6th, following a two-for-one stock  
3 split in Aluminum Company of America, on March 6th there was  
4 the then reported sale of those shares of Aluminum Company  
5 of America in two different price amounts as reported and,  
6 therefore, the account was credited with two different  
7 amounts, 99,300 and 105,930. So the sum of those two or  
8 205,230 represents the reported proceeds from the reported  
9 sale of Aluminum Company of America.

10 MS. BROWN: Mr. Rails (ph), could you put up all  
11 four transactions together, please?

12 BY MS. BROWN:

13 Q Mr. Greenblatt, can you walk us through how these  
14 transactions work together?

15 A Right, so the exercise that we did was to identify the  
16 purported trading in the company that was listed in the PW  
17 transaction. So, as I mentioned, you can see that in  
18 February the statements report a purchase with a cost basis  
19 of 202,446. Less than a month later, on March 6th, after a  
20 two-for-one stock split, the shares are purportedly sold for  
21 a profit. The 205,230 proceeds less the \$202,446 of cost  
22 basis gives a reported gain, based on that reported trading,  
23 of \$2,784. And then eight days later that same \$2,784 is  
24 withdrawn in a debit transaction, the PW transaction that  
25 was listed there.

1 MS. BROWN: Shannon, if you could put up Trustee  
2 Exhibit 81?

3 BY MS. BROWN:

4 Q Could you once again just identify the profit  
5 withdrawal transaction?

6 A Right, it's that March 14th transaction for that 2,784,  
7 which is the amount debited to the account. And so the  
8 trading resulted in a gain and that same gain was then  
9 debited in a profit withdrawal transaction.

10 Q Did you conduct a similar analysis for the other  
11 accounts to match the purported trading at BLMIS to the  
12 amount of the PW transactions?

13 A Yes, we did the same analysis for all PW transactions  
14 for all of the participating accounts.

15 Q And what did your analysis show?

16 A For the -- it showed that the trading was -- that there  
17 was -- for every PW transaction, it corresponded to the  
18 purported trading and the amounts virtually -- in virtually  
19 all cases tied.

20 MS. BROWN: We can clear the callout from Trustee  
21 Exhibit 81, but please leave it up.

22 BY MS. BROWN:

23 Q Did the customer statements identify PW transactions as  
24 debits?

25 A Yes, they did.



1 Q And can you point us to where that is on the customer  
2 statement?

3 A Yes. So as I was walking through it, if you -- again,  
4 if you look at the March 14th transaction under the  
5 transaction description "check aluminum," you'll see that  
6 the 2,784 is clearly listed in the amount debited to your  
7 account column.

8 Q Mr. Greenblatt, are you aware that Mr. Blecker has  
9 argued in this case that PW transactions are checks sent to  
10 companies to purchase securities on his behalf?

11 A Yes, I'm aware of that argument.

12 Q And did you undertake any analyses to test this  
13 assertion?

14 A Yes, I did.

15 Q Can you describe those analyses?

16 A So for every PW transaction where I just described that  
17 we looked at the related and reported trading to identify  
18 the reported profit that generated that amount, I also  
19 looked to see if there was any way to test the assertion  
20 that that 2,700 -- as one example, but for all of them --  
21 that that \$2,784 line item was for the purchase of new  
22 securities. So I looked at -- for every PW transaction with  
23 a stock name listed, I looked at the activity following the  
24 PW transaction, so through the end of that current month as  
25 well as the subsequent month, and in zero instances did I

1 ever find where new securities came into the account to  
2 support the assertion that that was used to purchase new  
3 securities. So you could see where, as we saw earlier, that  
4 the shares were reported as held at the end of February, you  
5 can see that there are no shares at the end of March  
6 reported in Aluminum Company of America, and if you continue  
7 on to page 2, you'll see it's not listed there either.

8 So the PW transaction does not appear to have been done  
9 to purchase new securities in this account.

10 Q I'm going to show you what's been marked as Trustee  
11 Exhibit 83. Can you explain this document and how you used  
12 it?

13 A Yes, so this is the subsequent month, this is the April  
14 1995 customer statement for the Aaron Blecker account,  
15 1B0022, and you can see that there was no new activity in  
16 this account in April of 1995 and the security positions  
17 allegedly held at the end of that month or reported as held  
18 at the end of that month were the same as March and don't  
19 include any shares for Aluminum Company of America. I  
20 looked at the subsequent month, just to make sure that there  
21 weren't timing delays or anything else associated with that  
22 allegation.

23 Q Sticking with Mr. Blecker, I'd like to discuss your  
24 analysis of his accounts and his principal balance. Let's  
25 start with account number 1B0022. How did you calculate the

1 principal balance for account 1B0022?

2 A So for each account -- and this is not just Mr.

3 Blecker, but this is the process that was done for everyone

4 -- for each account and its predecessor account numbers, if

5 there were such account numbers, we tracked the cash and

6 principal transactions for all of the activity from the

7 opening of the accounts, if it was opened after April of

8 1981, or from April of '81 forward, and created these

9 chronological listings that were used to perform the

10 principal balance calculation and they were done for all

11 BLMIS accounts.

12 Q I'd like to show you what's been marked as Trustee

13 Exhibit 86. Mr. Greenblatt, can you identify this document?

14 A Yes, I can. This is the principal balance calculation

15 for Mr. Aaron Blecker's account 1B0022, as you can see,

16 which was formerly account 100254.

17 Q And did you create this document?

18 A I did, yes.

19 Q So sticking with the account number that's on the top,

20 the two account numbers that we see on the top, can you tell

21 us why this document says 1B0022, formerly 100254?

22 A Yes. At BLMIS, they went through two different account

23 numbering system changes over the years. There was

24 originally an eight-digit, all-numeric account numbering

25 system, and that was in place until 1983 and I want to say

1 April of 1983 -- no, I'm sorry, July of 1983. And so until  
2 July of 1983, every account number had an eight-digit, all-  
3 numeric account number, and then beginning in -- I'm not  
4 sure if it was beginning in July or beginning in August of  
5 1983, they changed the account numbering system to a now  
6 six-digit account numbering system with two extra digits for  
7 subaccounts. And so that was done in 1983 and that was one  
8 continuous exercise where it wasn't an inter-account  
9 transfer to open up a new account, it was just an account  
10 numbering change and the customer statements just kind of  
11 continued seamlessly.

12 Then in 1992, there was an account numbering change  
13 again to go from the all-numeric customer account numbering  
14 system to the alphanumeric. So this account became 1B0022  
15 in 1992.

16 Q So what date was this account opened?

17 A This particular account was opened with the account  
18 number 100254 in September of 1986.

19 Q And what account number did it have after 1992?

20 A It had the account number 1B0022.

21 Q I'd like to talk about the various columns of this  
22 document that appear on Trustee Exhibit 86. Can you walk us  
23 through what these columns are?

24 A Yes. So the -- and if you could put the column numbers  
25 in there, it would make it easier as I walk through them

1 all. Perfect.

2 MS. BROWN: And, Shannon, maybe include the first  
3 couple --

4 THE WITNESS: Right.

5 MS. BROWN: -- thank you.

6 THE WITNESS: Perfect. So the first column is  
7 simply an ID number that was used by FTI, so that at all  
8 points in time each individual cash and principal  
9 transaction had its own ID number. So that was not included  
10 on the customer statement itself. But columns 2, 3 and 4  
11 were the exact information that was included on the customer  
12 statements themselves. So that included the transaction  
13 date, the transaction description and code, and the dollar  
14 amount. And so for those three columns, those four pieces  
15 of information were exactly as they were recorded on the  
16 BLMIS customer statement data.

17 And then columns 5, 6, 7, and 8 are essentially  
18 the nuts and bolts of the principal balance calculation  
19 where every deposit made by a customer, as we talked before,  
20 inflows and outflows. Columns 5 and 7 represent the  
21 inflows, those are the customer deposits and the inter-  
22 account transfers of principal in from preexisting BLMIS  
23 accounts, and columns 6 and 8 are the outflows representing  
24 the withdrawals, profit withdrawals and capital withdrawals  
25 are both included in that column, as well as column 8, which

1 is the inter-account transfers of principal out. And column  
2 9 provides us with the running balance of the principal in  
3 each account, so that at any point in time and every point  
4 in time we can tell you what amount of principal each  
5 customer had.

6 Columns 10 and 11 provide the BLMIS source  
7 document where we obtained the cash and principal  
8 transactions. So those are the customer statements and  
9 debtor's books and records where we obtained the data.

10 BY MS. BROWN:

11 Q Okay. And sticking with the customer statements in the  
12 time period from 1986 to 1992 for the account 1B0022, did  
13 you review all of those customer statements?

14 A Yes, I did.

15 Q Okay. And based on your review, what account number  
16 would have appeared on those statements in the time period  
17 1986 to 1992?

18 A Those would have been with the account number 100254  
19 from 1986 through the middle of 1992.

20 MS. BROWN: And if we could just show Chaitman  
21 Exhibit 31?

22 THE WITNESS: Is that one that will be on the  
23 monitor --

24 MS. BROWN: Chaitman Exhibit --

25 THE WITNESS: -- or in the binder?

1 MS. BROWN: -- 31 -- oh, sorry, I apologize. It  
2 would be in the binder.

3 THE COURT: 31.

4 MS. BROWN: 31.

5 BY MS. BROWN:

6 Q Mr. Greenblatt, can you identify this document?

7 A Yes, this is one of the microfilm ledgers for the --  
8 what eventually becomes 1B0022 for the month of August 1990  
9 in the Aaron Blecker account.

10 Q And what account number is used on this statement?

11 A This is the 100254 account.

12 Q And what account does 100254 become?

13 A That becomes 1B0022.

14 Q And based on your understanding of the BLMIS books and  
15 records, would you expect to see BLMIS issuing a statement  
16 for Aaron Blecker's account during this time period in the  
17 number of 100254?

18 A Up through and including the middle of 1992, yes.

19 Q Thank you.

20 MS. BROWN: If we could go back to Trustee's  
21 Exhibit 86?

22 BY MS. BROWN:

23 Q I would just like to walk through the principal balance  
24 calculation. What was the starting point for the principal  
25 balance calculation in 1B0022?

1 A So the first two line items you see in September of  
2 1986, based on the review of the debtor's books and records,  
3 we identified the JRNL line item and the CA line item on the  
4 customer statements. And based on the recordkeeping within  
5 BLMIS and the codes, we identified those as cash inflow  
6 transactions in Mr. Blecker's account.

7 Q Okay. And after you identified those first  
8 transactions, how did you analyze his principal balance  
9 overall?

10 A So the principal balance was a calculation of inflows  
11 less outflows. And so every new inflow added to that  
12 balance and every outflow subtracted from that balance. And  
13 as we mentioned earlier, that was important at any point in  
14 time there were inter-account transfers, we had to know the  
15 transferor's principal balance as of every day.

16 Q Okay.

17 MS. BROWN: And if we could go to page 4 of  
18 Trustee Exhibit 90.

19 (Pause)

20 MS. BROWN: I'm sorry, page 4 of Trustee Exhibit  
21 86. I misspoke.

22 (Pause)

23 THE COURT: Are you sure it's not page 3?

24 MS. BROWN: Page 3.

25 THE WITNESS: Page 3.



1 BY MS. BROWN:

2 Q What was the ending principal balance for account  
3 1B0022?

4 A It was a negative principal balance of \$59,634.

5 Q And why did this account have a negative principal  
6 balance in your calculation?

7 A Because throughout the time period of activity in this  
8 account it had more withdrawals then it did deposits.

9 MS. BROWN: If we could go back to page 1 of  
10 Trustee's Exhibit 86? And I'd like to focus on the year  
11 1992, so if we could look at the bottom of page 1 and the  
12 top of page 2 that would be great. Okay.

13 BY MS. BROWN:

14 Q So, Mr. Greenblatt, what transactions occurred in 1992  
15 that affected your principal balance calculation?

16 A As you can see from the bottom of page 1, there were  
17 profit withdrawal transactions beginning on March 5th of  
18 1992 and continuing through November of 1992, and then there  
19 was a capital addition transaction on December 16th of 1992.

20 MS. BROWN: If we could just highlight the bottom  
21 rows --

22 THE WITNESS: Right. So --

23 MS. BROWN: -- and then the top row, two rows of  
24 page 2.

25 THE WITNESS: Correct.

1 BY MS. BROWN:

2 Q Mr. Greenblatt, were those seven transactions reflected  
3 on BLMIS customer statements for this account?

4 A Yes. So all -- the six PWs and the CA and the customer  
5 statements that they were obtained from are included in the  
6 Bates references in the far right two columns.

7 Q And did those transactions appear on any other BLMIS  
8 documents?

9 A They did, yes.

10 Q I'd like to show you what's been marked as Trustee's  
11 Exhibit 87. Mr. Greenblatt, can you identify this document?

12 A Yes, this is one page or an excerpt of the portfolio  
13 management transaction detail report, which was one of the  
14 documents within the BLMIS books and records.

15 Q Okay. And can you tell us how you used this document  
16 in your analysis?

17 A This document was used to corroborate and confirm the  
18 cash and principal transactions that were obtained from the  
19 customer statement data. And you can see from the activity  
20 in 1B0022 that the -- it includes the same six PW  
21 transactions and the one capital addition transaction right  
22 there.

23 Q And how did you use PMRs generally in your analysis?

24 A Well, so this was a PMT --

25 Q I'm sorry.

1 A -- which is the portfolio management transaction  
2 report. So we used this as confirmation and corroboration  
3 that the exercise of accumulating all of the cash and  
4 principal transactions was complete.

5 Q I'd like to show you what's been marked as Trustee  
6 Exhibit 88. Mr. Greenblatt, can you identify this document?

7 A Yes, this is a portfolio management report -- or one  
8 page of a portfolio management report for the year ended  
9 December 31, 1992, maintained within the BLMIS books and  
10 records.

11 Q And can you identify any accounts relating to Mr.  
12 Blecker on this page?

13 A Well, there's the top two. We've been talking about  
14 account 1B0022 and then the second one of 1B0023 are both  
15 included on this page.

16 Q And based on your analysis, is the account reference  
17 with 1B0022, is that account number consistent with the time  
18 period of this document?

19 A Yes.

20 Q How did you use this PMR in your principal balance  
21 calculation?

22 A So the activity reported related to cash and principal  
23 activity is summarized. Whereas a PMT report, the one we  
24 just looked at, was line-item-by-line-item detail for a  
25 given transaction, the portfolio management report was more

1 summary-level information, it was year -- it was done on a  
2 monthly basis and it included year-to-date information. So,  
3 for example, the one for the three months ended March would  
4 contain three months of data, the year-end ones contained  
5 the full calendar year data. So this provides 12 months of  
6 activity for the account and we used the information related  
7 to the cash and principal transactions.

8 So you can see the capital additions line item under  
9 1B0022 shows a \$100,000 credit and that ties to the one  
10 \$100,000 CA transaction that we saw in the customer  
11 statements and that we saw on the portfolio management  
12 transaction detail report. Additionally, the profits  
13 withdrawn line item of \$16,858.40 is the aggregate of the  
14 six PW transactions that existed in 1992.

15 Q For what time period did you find the PMRs and PMTs in  
16 BLMIS's books and records?

17 A The summary level PMRs that we're looking at right now  
18 were available from the early 1980s through November of 2008  
19 and during the microfilm time period prior to December of  
20 1995 there were some -- some gaps in available PMRs. The  
21 detailed portfolio management transaction reports were  
22 available from the mid-1980s until the mid-1990s with some  
23 gaps in the availability of those records.

24 Q I'd like to show you what's been marked as Trustee  
25 Exhibit 89. Mr. Greenblatt, can you identify this document?

1 A Yes, this is one of the spiral-bound notebooks that was  
2 maintained by BLMIS, this one was for customer deposits and  
3 it was called the "check in book."

4 Q And what is the date of this document?

5 A It is dated February 1986.

6 Q For what time period did you find spiral notebooks in  
7 BLMIS's books and records?

8 A There were spiral notebooks from -- covering various  
9 points in time from the mid-1980s until the mid-1990s, but  
10 as with the PMT transact -- or PMT reports there were gaps  
11 and not all of the time periods were available.

12 Q How did you use this document in your principal balance  
13 calculation?

14 A These documents were also used as corroboration and  
15 confirmation of the cash and principal transactions that  
16 were obtained from the customer statements and included on  
17 the chronological listings.

18 MS. BROWN: If we could turn to pages -- page 44  
19 of this Trustee Exhibit 89?

20 BY MS. BROWN:

21 Q Mr. Greenblatt, are you able to identify any  
22 transactions relating to Aaron Blecker on this page?

23 A Yes, there was the September -- the very last line  
24 item, there was a September 22nd entry, and here you can see  
25 the account number is the all-numeric number that was in

1 existence in 1986 for 100254-10, and it was the amount  
2 \$50,000, which was that JRNL entry that we saw that opened  
3 the account.

4 MS. BROWN: And if we could turn to page 45 of  
5 Exhibit 89?

6 BY MS. BROWN:

7 Q Were you able to identify any other transactions  
8 relating to Aaron Blecker on this page?

9 A Yeah, right in the middle of the page, dated September  
10 24th, there is a second deposit, also in 100254-10, and that  
11 was also for 50,000. If you remember, there was one JRNL  
12 and one CA, this was the CA transaction.

13 Q And did both of these transactions appear on the  
14 customer statements?

15 A Yes, they did.

16 Q And did they both appear on your principal calculation?

17 A Yes, they did.

18 MS. BROWN: If we could turn to Trustee Exhibit  
19 90? And specifically page 180.

20 BY MS. BROWN:

21 Q Mr. Greenblatt, can you identify this document?

22 A Yes, this is again a spiral-bound notebook. I can't  
23 tell the year from this page, but this is the spiral-bound  
24 notebook that was maintained at BLMIS related to checks  
25 going out.

1 Q And how did you use the spiral notebooks in your  
2 analysis?

3 A The same way we used the checks coming in, we used them  
4 as confirmation and corroboration of the cash and principal  
5 transactions that were reported on the customer statements.

6 Q And can you identify any transactions relating to Aaron  
7 Blecker on this page?

8 A Yes, the second Blecker line item there is for the  
9 100254 account that eventually became the 1B0022 account.  
10 It indicates a profit withdrawal transaction for \$3,230.02.

11 Q And did you find that transaction on the customer  
12 statement?

13 A Yes, that was on the customer statement for the 1 --  
14 what was eventually the 1B0022 account.

15 Q You've mentioned that you reviewed customer statements,  
16 PMRs, PMTs, and spiral notebooks; are these the type of  
17 documents that -- are these documents the type of evidence  
18 relied upon by professionals in your field?

19 A Yes, they are.

20 Q And you've mentioned that BLMIS did not have complete  
21 sets of each of these categories of documents. In your  
22 experience, is it customary to have gaps in records?

23 A Certainly, as a forensic accountant, when you're  
24 brought into troubled-company situations or companies that  
25 might be in litigation or in -- dealing with allegations of

1 fraud, very often we come into situations with incomplete or  
2 books and records that are not available at all or are not  
3 available in part. So it is very common for books and  
4 records to have gaps in them. I would say in this  
5 particular situation, for a scheme that lasted as long as it  
6 did, we are extremely fortunate, I would consider this  
7 particular matter to be one that had an extensive amount of  
8 available information for the time period it covered, in my  
9 experience.

10 MS. BROWN: I'd like to go back to Trustee Exhibit  
11 86. And if you would go to page 3?

12 BY MS. BROWN:

13 Q Mr. Greenblatt, this document shows your principal  
14 balance calculation for 1B0022, correct?

15 A Yes.

16 Q And during the course of this proceeding did you make  
17 any changes to this particular principal balance  
18 calculation?

19 A Yes, there was -- during the course of this proceeding,  
20 there was one transaction that was obtained from a microfilm  
21 ledger that was very difficult to read and upon further  
22 review of that one individual statement, there was one  
23 particular line item here in December of 1989 where the  
24 amount was adjusted.

25 Q If I could pause you for one second.



1 MS. BROWN: If we could just go to December 1989?

2 I think it might be page 1.

3 (Pause)

4 THE WITNESS: Right, December 13th, 1989.

5 BY MS. BROWN:

6 Q Thank you. Please continue.

7 A So that particular transaction, both the transaction  
8 code and the amount were difficult to read. The transaction  
9 code was not possible to be read and the amount was unclear.  
10 As we've seen from some of the documents earlier today, some  
11 of these microfilm ledgers can be very difficult to read.  
12 The data entry that was done to put the microfilm ledgers  
13 into databases to do all of these calculations, it was  
14 originally input as \$5,187, but as I looked more closely at  
15 that particular document, I did additional procedures and  
16 essentially tested the statement by doing the math around  
17 it. And to get from the new balance to the ending balance  
18 with all of the other activity on there, I was able to  
19 determine that the number actually had to be 3,187. So once  
20 I identified that, that correction, I made the correction in  
21 the principal balance calculation.

22 Q Do you generally perform quality control on your  
23 principal balance calculations?

24 A Yes. So there was an extensive quality control  
25 exercise the first time all of this data was identified and

1 input from microfilm, but then even more quality control is  
2 done as these accounts move toward either a litigation or a  
3 claims process, or are highlighted in some other way. So  
4 once we were able to identify a more finite group of  
5 participating accounts, I went through all of the -- my team  
6 and I went through all of those microfilm to make sure that  
7 we were comfortable with the numbers and, if they were  
8 difficult to read, we added additional procedures to  
9 identify other difficult -- other adjustments like this one  
10 from a 5 to a 3.

11 Q Did you calculate the principal balances of all of Mr.  
12 Blecker's accounts?

13 A Yes, I did.

14 MS. BROWN: Let's look at Trustee's Exhibit 91.

15 BY MS. BROWN:

16 Q Mr. Greenblatt, can you identify this document?

17 A Yes, this is the principal balance calculation for  
18 account 1B0023. And you can see it says formerly 100215.  
19 This is one of the account numbers that actually had three  
20 different account numbers, because it predated 1983 when  
21 that first change happened. So this is the principal  
22 balance calculation for the account that eventually become  
23 1B0023.

24 Q Can you walk us through the history of the account  
25 numbers for the account that ended up being 1B0023?

1 THE COURT: What was the third account number?

2 THE WITNESS: The first account number --

3 THE COURT: Oh, the first.

4 THE WITNESS: -- was -- it was the eight-digit  
5 account number, that was 100214-18. Then in 1983 that  
6 account number changed 100215, with various subaccounts, and  
7 then in 1992 it became 1B0023. And so even though all of  
8 these are listed under 1B0023, if you go back to the source  
9 document in columns 10 and 11, those will come from the  
10 customer statements that have the account number that was  
11 applicable at the time.

12 BY MS. BROWN:

13 Q And the original account number for this account,  
14 100214 -- 18?

15 A I believe so, yes.

16 Q Okay. That doesn't appear on this document, does it?

17 A It doesn't, but if you went back to the pre-1983 source  
18 documents, the customer statement that those -- the customer  
19 statement data that that was pulled from was from that  
20 account number, and then it was 100215 and then it was  
21 1B0023.

22 Q And can you describe the work you did to ensure that it  
23 was one consistent account and these were just account  
24 number changes?

25 A Yes. So a full analysis was done by my team and I to

1 ensure that the ending balance of one account, that it truly  
2 was not an inter-account transfer and a new account, but  
3 rather just an account numbering system change. So an  
4 entire analysis was done from the first eight-digit account  
5 number to the second six-digit account number to make sure  
6 that the ending balance of one became the beginning balance  
7 of the other. And that analysis was done all the way  
8 through not just the joint Blecker account, but for all  
9 BLMIS accounts that existed as of those conversions.

10 MS. BROWN: If we could turn to page 4 of this  
11 document, Trustee Exhibit 91?

12 BY MS. BROWN:

13 Q Mr. Greenblatt, what was the ending principal balance  
14 or 1B0023?

15 A This account ended with a negative principal balance of  
16 \$466,527.

17 Q Why did it end with a negative balance?

18 A It ended with a negative balance because the total  
19 amount of withdrawals summarized in column 6 were greater  
20 than the amount of inflows of deposits and inter-account  
21 transfers of principal in from columns 5 and 7.

22 MS. BROWN: If we could look at Trustee Exhibit  
23 92?

24 BY MS. BROWN:

25 Q Mr. Greenblatt, can you identify this document?

1 A Yes, this is the principal balance calculation for  
2 account 1B0156, which was the Aaron Blecker revocable trust  
3 account.

4 Q And did this account have any PW transactions?

5 A It did not.

6 Q Did this account have any deposits of principal?

7 A It did not.

8 Q Okay. Can you describe the nature of the transactions  
9 that occurred in this account?

10 A Yes. So as you can see from this activity, this  
11 account had three inter-account transfers with other BLMIS  
12 accounts. As you can see from the top line item, the  
13 initial transaction that opened this account was in April of  
14 1997 when the 1B0022 account closed and the value of that  
15 account as reported on that statement was transferred into  
16 this account 1B0156. And then in two transactions in 2007  
17 -- and at that time the -- this account gets no principal in  
18 the principal balance calculation, because the 1B0022 had  
19 negative principal at the time of that inter-account  
20 transfer.

21 And then in June and September of 2007, this account  
22 had two more inter-account transfers from a preexisting  
23 BLMIS account, in this case the 1B0157 account. And based  
24 on the analysis of the 157 account, that account also did  
25 not have any principal at the time of these transfers;

1 therefore, no principal was credited to this account.

2 So for all of these principal balance calculations,  
3 they can't be performed unless you know how much principal  
4 is available in the transferor's account.

5 MS. BROWN: If we could look at Trustee's Exhibit  
6 93?

7 BY MS. BROWN:

8 Q Can you identify this document?

9 A Yes, so this is the principal balance calculation for  
10 account 1B0157. And similar to what we just looked at from  
11 156, you can see that on the same day, April 24th of 1997,  
12 the 1B0023 account closed and the value recorded in that  
13 account for \$389,847 was transferred via inter-account  
14 transfer to open this account, 1B0157, but we just -- you  
15 just walked through that -- or you put the document up and I  
16 walked you through it -- at the time, that principal balance  
17 in 1B0023 was negative; therefore, this account opened with  
18 an inter-account transfer that was all fictitious profits  
19 and no principal came in. So, therefore, the other side of  
20 those two inter-account transfers with 156 that we looked  
21 at, in June and September of 2007, this account transferred  
22 -- had an inter-account transfer with 1B0156 at a point in  
23 which it had no principal in it.

24 Q Okay, I'd like to turn to a different analysis you  
25 performed. Are you aware that Mr. Blecker has alleged that

1 he didn't take any withdrawals from his BLMIS accounts?

2 A I am aware that he has made that argument, yes.

3 Q And did you do any specific analyses to test this  
4 assertion?

5 A I did, yes.

6 Q Can you describe what that analysis was?

7 A So what I did was I looked at his account over time to  
8 determine whether or not the activity in the account  
9 reflected withdrawals or reinvestments or any type of  
10 activity that would test that assertion.

11 Q And what did you find with respect to his balances?

12 A I found that the ending balance in his -- so if we  
13 start with the 1B0022 account, the ending balance in his  
14 1B0022 account each and every month was roughly equal to his  
15 cash deposits. So the documentation in the account activity  
16 indicates that he had made an initial deposit and every  
17 profit, like the Aluminum Company of America that we walked  
18 through, every reported profit that was shown in the account  
19 was offset by a withdrawal transaction and the balance  
20 remained flat. So there were never any withdrawals of the  
21 original deposits, but every individual profit was withdrawn  
22 in a PW transaction.

23 MS. BROWN: Let's look at Trustee Demonstrative 5.

24 BY MS. BROWN:

25 Q Mr. Greenblatt, can you identify this document?

1 A Yes, so that's what I just tried to describe without a  
2 picture, so this is the picture of what I was just  
3 describing. So you can see here that the blue line  
4 represents what the reported value of the 1B0022 account was  
5 month after month after month from September 1986 through  
6 that transfer to the 1B00 -- to the 1B0156 account in 1997.

7 Q You described what the blue line represents; what does  
8 the red line represent?

9 A So the red line represents the cumulative total or the  
10 aggregate of all of the profit withdrawal transactions. So  
11 each time a new withdrawal was being taken out, that shows  
12 the growing balance of withdrawals.

13 Q And what does the green line represent?

14 A The green line represents what one would expect the  
15 equity in his account to have looked like if the argument he  
16 has made that he never took any withdrawals and that instead  
17 the profits were reinvested, the green line represents what  
18 one would have expected that account to do based on the  
19 reported trading in that account.

20 Q How much money did Mr. Blecker put into this account,  
21 1B0022?

22 A You can see by the two callout boxes there that in  
23 total there was a -- there were \$200,000 of deposits into  
24 this account during this 11-year period.

25 Q I'd like to show you what's been marked as Trustee



1 Exhibit 97. And can you identify this document, Mr.  
2 Greenblatt?

3 A Yes, so this is the customer statement data from the  
4 1B0022 account for the month ended March 30th, 1997.

5 Q And according to this account statement, what was the  
6 reported value of the account at the time of the inter-  
7 account transfer in this account?

8 A So if you look at the transaction dated April 24th,  
9 there was a transfer of 1B -- there was a transfer to  
10 account 1B0156, which we saw from that principal balance  
11 calculation was the transaction that opened that account,  
12 and this was the second-to-last entry in 1B0022, so this was  
13 the entry to move all of the remaining reported equity in  
14 this account to the new account. So the total value of this  
15 account as of that time was \$206,529.

16 Q How many years was account 1B0022 open?

17 A It was open for an 11-year period.

18 Q And according to the statements, how much of the  
19 account's balance appreciated over those 11 years?

20 A Sixty five hundred dollars.

21 MS. BROWN: If we could turn back to Trustee's  
22 Demonstrative 5?

23 BY MS. BROWN:

24 Q Can you tell us why this account's balance appreciated  
25 by \$6500 over 11 years?

1 A Yeah, simply put, because the -- each individual profit  
2 that was reported as earned was taken out in a profit  
3 withdrawal transaction.

4 Q And if the profit transactions had not been debited but  
5 were instead reinvested, what should have happened to this  
6 account's balance?

7 A Based on the reported trading that was done month after  
8 month for that 11-year period, it would have represented  
9 this green line and it would have been over \$800,000 as of  
10 April 1997.

11 MS. BROWN: If we could turn to Trustee's  
12 Demonstrative 6?

13 BY MS. BROWN:

14 Q Mr. Greenblatt, can you identify this document?

15 A Yes, this is the -- essentially the same type of  
16 analysis, the same analysis that I had done, but this one  
17 was done for 1B0023. So I looked at the actual customer  
18 statement reported activity and did the same analysis.

19 Q And if you could just walk us through some of the  
20 callout boxes, starting with principal credit of \$42,000 --  
21 42,350, can you explain that?

22 A Yes. So this is one of the accounts that was opened  
23 prior to April 1st of 1981. So, based on the assumption  
24 provided to me, I started the principal balance calculation  
25 with the value reported in the March 31, 1981 customer

1 statement. So it began with a principal credit of \$42,350,  
2 which was treated as the initial investment in the account,  
3 and then there were those four subsequent months where there  
4 were additional inflows into the account.

5 Q And what did your analysis show with respect to the  
6 reported equity in account 1B0023?

7 A It showed the same essential result of 1B0022, which is  
8 that the blue line represents the reported equity in the  
9 account on a month-to-month basis and that remained flat and  
10 limited to the balances of the cash deposits, and each  
11 individual trade that was reported on the statements, all  
12 generating gains, never any losses, but all of those gains  
13 were then reduced immediately thereafter by a debit  
14 transaction for the profit withdrawal. And so the balance  
15 never grew because each individual trade was followed by a  
16 profit withdrawal transaction.

17 MS. BROWN: I'd like to turn to Trustee's  
18 Demonstrative 7.

19 BY MS. BROWN:

20 Q Mr. Greenblatt, can you identify this document?

21 A Yes, this was again the same exercise. This was the  
22 third analysis that I had done for account 1B0034 that at  
23 one time was a participating account.

24 Q And what can you tell us about your analysis with  
25 respect to the 1B0034 account?

1 A So this account was similar to Mr. Blecker's accounts  
2 in many ways, but had a one-year period where it was  
3 different than Mr. Blecker's account, because for all but  
4 one year this account had its profits sent to it -- sent to  
5 him following each transaction. So each gain reported on  
6 the statement was followed by a profit withdrawal  
7 transaction with the exception of the one-year period from  
8 June 1987 until May of 1988. At that time, this particular  
9 account asked for its profits to be reinvested. And so it's  
10 hard to see based on the scale of this graph, which is why  
11 we've done the callout box with a different scale, but you  
12 can see that starting in June of 1987 this account asked for  
13 profits to be reinvested. And so for that period you can  
14 see the equity in the account is growing, as one would  
15 expect an account with profits being reinvested to do.

16 Then after ten months, the customer requested a  
17 redemption of the profits earned over the prior ten months  
18 and asked for their profits to be sent to them moving  
19 forward. And so what you see following that transaction --  
20 or following that correspondence is an immediate drop of  
21 \$21,340, which was the aggregate sum of those reinvested  
22 profits. That transaction was listed on the customer  
23 statement as a capital withdrawal or a CW and then every  
24 transaction following that for the withdrawals were listed  
25 as PWs. So this spike up of purported equity on the

1 statements is what one would expect if the profits were  
2 reinvested and then it shows how the PW transactions were  
3 being used by BLMIS in its recordkeeping.

4 Q So I'd like to wrap up. So based on all of the works  
5 you've done now with BLMIS's books and records, have you  
6 reached conclusions about the cash and principal  
7 transactions on those records?

8 A Yes. So the -- based on all of the work that I and the  
9 FTI team have done, it's my conclusion that the cash and  
10 principal transactions that have been reported on the BLMIS  
11 customer statements accurately reflect cash transactions and  
12 are appropriately used in the principal balance calculation  
13 as debits and credits or inflows and outflows.

14 Q And how many principal balance calculations have you  
15 completed?

16 A I've prepared over 8,000 of them.

17 Q And have you -- did you follow the same process that  
18 you've described here today with respect to Mr. Blecker's  
19 account?

20 A For all 8,000 of them, yes.

21 Q And did you reach any conclusions about the profit  
22 withdrawal transactions of BLMIS?

23 A Yes. Based on all of the analysis that I've done  
24 around the profit withdrawal transactions, it is my  
25 conclusion that the profit withdrawal transactions for five

1 main reasons are properly reflected. One, they're  
2 withdrawal transactions, by definition they use the word  
3 "withdrawal," to each time they debit the account and,  
4 therefore, reduce the purported equity in the account, for  
5 the period we have bank records, they've tied to bank  
6 records and I've seen nothing that contradicts the treatment  
7 of these as debits.

8 Q Mr. Greenblatt, did you get an opportunity to review  
9 the deposition testimony of the BLMIS employees?

10 A I did, yes.

11 Q And does any of that testimony change your opinions  
12 that you've stated here today?

13 A No, and in fact the testimony that I read from the  
14 employees further support the opinions that I have about the  
15 PW, the treatment of PW transactions.

16 Q And are you confident in the results of your analyses  
17 to a reasonable degree of accounting certainty?

18 A I am, yes.

19 MS. BROWN: I have nothing further, Your Honor.

20 THE COURT: Cross-examination.

21 MS. CHAITMAN: I'm sorry?

22 THE COURT: Cross-examination.

23 CROSS-EXAMINATION

24 BY MS. CHAITMAN:

25 Q Mr. Greenblatt, did I understand you to say that with

1 respect to this --

2 MS. CHAITMAN: -- would you be good enough to pull  
3 up the last demonstrative that you just had?

4 MS. BROWN: Sure. It's Trustee Demonstrative 7.

5 BY MS. CHAITMAN:

6 Q With respect to this account 1B0034, did I understand  
7 you to say that you saw a letter from the customer  
8 instructing as to how the profit withdrawals should be  
9 handled?

10 A I saw a notation -- I don't remember if it was a letter  
11 or if it was a notation in the customer file requesting --  
12 or acknowledging, I think it was initials in an employee's  
13 handwriting that this was a period of reinvestment.

14 Q So you -- are you -- do you know which employee  
15 initialed the notation you're referring to?

16 A I don't know which one.

17 Q Okay. So it wasn't a letter from Mr. Blecker?

18 A Oh, definitely not Mr. Blecker. This isn't Mr.  
19 Blecker's account.

20 Q Okay. So 1B0034 is not Mr. Blecker's account?

21 A No, this is the account of Norman Blum.

22 Q Oh.

23 THE COURT: Why are we -- why are you showing us  
24 this account?

25 MS. BROWN: I was showing that account, Your

1 Honor, to show what the balances would have done if the  
2 profits had been reinvested to contrast it with Mr.  
3 Blecker's account, where the account balances stayed flat  
4 for the entire time.

5 THE COURT: But you showed that with the two  
6 Blecker demonstratives.

7 MS. BROWN: I showed it following the two Blecker  
8 demonstratives and I asked him to identify the account that  
9 it was about.

10 THE COURT: I guess I don't understand why we're  
11 even talking about this account, this 34 account.

12 MS. BROWN: Okay, I apologize I didn't make it  
13 clear. The purpose was to show the distinction between Mr.  
14 Blecker's account where he didn't have any periods of  
15 reinvestment, he always had -- his account balances stayed  
16 flat for the entire period, whereas this account had a brief  
17 period where the profits were reinvested and you see the  
18 spike up in the equity balance.

19 THE COURT: It just seems irrelevant to me.

20 MS. BROWN: Okay.

21 THE COURT: Go ahead.

22 BY MS. CHAITMAN:

23 Q In the course of your work, did you find any document  
24 evidencing that Mr. Blecker or his wife, Sophie Blecker, had  
25 ever communicated to anyone at Madoff that they wanted to



1 have profit withdrawals sent to them?

2 A It was -- there are documents that include the account  
3 opening forms -- based on what I understand from the  
4 employee depositions, at the time accounts are opened, they  
5 are identified as whether or not the profit should be sent  
6 to them or reinvested. So I think the account opening form  
7 provided that documentation but I have not seen anything  
8 since the account opening form either way.

9 Q Okay. And you haven't seen anything signed by either  
10 of the Bleckers, isn't that true?

11 A Well, I don't recall if they signed the account opening  
12 form or not.

13 Q Well, let's look at the account opening form. Look for  
14 example at Trustee Exhibit-41, if you'd be good enough to  
15 pull that up. Do you see any place on this document where  
16 either of the Bleckers signed it?

17 THE COURT: Didn't they sign the customer  
18 statements, though?

19 MS. CHAITMAN: I'm sorry?

20 THE COURT: The -- I mean, the account statement  
21 with the openings -- the opening account documents, wouldn't  
22 they have signed that?

23 MS. CHAITMAN: These -- this is the opening account  
24 document that we have for the Blecker account. We don't  
25 have any other --

1 THE COURT: They signed the discretionary trading  
2 authorization and option trading authorization?

3 MS. BROWN: Your Honor, my understand of this form  
4 is this is an internal BLMIS document. I think they signed  
5 the customer agreement.

6 THE COURT: That's what I mean.

7 THE WITNESS: Right.

8 MS. CHAITMAN: Yeah, I don't -- I haven't looked at  
9 it recently, but I don't believe that says anything about  
10 withdrawals.

11 BY MS. CHAITMAN:

12 Q And the test -- would you agree with me, Mr.  
13 Greenblatt, that the testimony of both the Madoff employees  
14 and the records that you sought indicate that if someone  
15 wanted withdrawals sent to them, they had to send a request  
16 in writing?

17 A Well, my recollection of the testimony from the  
18 employees was that if they were routine or consistent  
19 withdrawals, they didn't need to send it --

20 Q Each time.

21 A -- each time, but that for accounts that were opened  
22 around this timeframe, from the very beginning, they were  
23 identified as either a send or a reinvest account. And  
24 that's indicated here on this file maintenance page.

25 Q Well, who wrote the S?

1 A I don't know.

2 THE COURT: Where is the S? LRC Properties, okay.

3 THE WITNESS: Right. So when we looked at profit  
4 withdrawal transactions, there were sometimes where it said  
5 check and a stock name, sometimes it said check and  
6 dividends, sometimes it said check and interest. And so  
7 that's what the S indicates. I don't know who wrote it, but  
8 that's what the S indicates.

9 BY MS. CHAITMAN:

10 Q Right. And when was it written?

11 A I don't know. I mean, I would assume at the time the  
12 account was open, but there's no date and I don't know.

13 Q You mean in 1981?

14 A That would be my guess but I -- it's not dated and I  
15 can't testify to when it was written.

16 Q Okay. In all of the work that you've done, have you  
17 signed -- have you found a single check that was written to  
18 the Bleckers?

19 A I have not, no.

20 Q Okay. Now, what was the rate of return that Mr. Madoff  
21 was paying to his customers during, say, 1981? Do you know  
22 that?

23 A It was in the -- I -- it was in the low 20's. I don't  
24 know an exact number but it was in the low 20 percent range.

25 Q Okay. And how long did it stay in the low 20 percent

1 range?

2 A For most of the '80s and '90s, the reported trading for  
3 the majority of accounts, I can't necessarily say that I can  
4 testify that it was this way for all accounts, but for the  
5 majority of the accounts he was reporting to manage, it was  
6 in the low 20's for a consistent period throughout the '80s  
7 and into the early '90s, at which point it might have  
8 dropped below a 20 percent rate. But for the most part, it  
9 was in the low 20's.

10 Q Okay. And did you determine based on all of the work  
11 you've done how it was determined that some people would get  
12 higher returns than others?

13 A No, that was beyond the scope of what I was doing for  
14 principal balance. I didn't look at one account versus  
15 another from a rate of return perspective.

16 Q Okay. And with respect to the Blecker accounts, did  
17 you determine that they had a higher or a lower return than  
18 the 20 percent that you've been talking about?

19 A They were in that same range.

20 Q They were in the same range?

21 A Yes.

22 Q And even in the early 1990's?

23 A I think my analysis continued through 1997. So yes, it  
24 was in the same range.

25 Q Okay. Would you be good enough to pull up Trustee's

1 Exhibit-88? So this has in the middle of the page, the  
2 earnings in 1B0023, which was Mr. Blecker's account for the  
3 year 1992, right?

4 A Yes.

5 Q And this shows that the total profits were \$64,000, is  
6 that right?

7 A You're looking at the joint account for B0023?

8 Q Yes. Excuse me, no. Let's start with Aaron Blecker,  
9 the 22 accounts.

10 A Okay.

11 Q Okay. So this shows an expected rate of return of 22  
12 percent, right?

13 A That's what it says, yes.

14 Q Okay. And the profits -- all of the profits were  
15 withdrawn from the account, is that right?

16 A That is correct. All of the reported profits, yes.

17 Q Okay. Well, were there unreported profits?

18 A Well, I -- whether or not the profits were actually  
19 earned or just reported, I'm drawing that distinction.

20 Q Okay. So if the account balance was \$207,000, then it  
21 was -- and it was paying 20 percent, you would expect that  
22 he would have withdrawn 40,000 that year, right?

23 A For that one year and that one year only, well, it's --  
24 so that was the year that -- it's a little harder to answer  
25 because the \$100,000 second deposit came in on December 16th

1 of that year, so there wouldn't have been any time to get a  
2 return on that. But there was \$200,000 of cash deposits in  
3 that account by the end of 1992.

4 THE COURT: This is the other account, though.  
5 This isn't the account with the \$100,000 that went in on --  
6 in December --

7 THE WITNESS: Well, we moved to the top of this  
8 page, so we're looking at the 1B0022 account for Aaron  
9 Blecker.

10 THE COURT: I apologize.

11 THE WITNESS: So there was \$200,000 of cash  
12 deposits in that account by the end of December 1992.

13 BY MS. CHAITMAN:

14 Q And the second hundred was deposited when?

15 A December 16th of 1992, so at the very end.

16 Q Okay.

17 A And so the \$200,000 was now showing a reported equity  
18 value of 207,000.

19 Q Okay. So even if the -- if you just say that there was  
20 100,000 -- 107 because you're saying all of the profits were  
21 drawn out, so if there was 107,000 in the account for 11  
22 months of 2002, right? Because you're saying 100 was  
23 deposited in November of 2002, right?

24 A Well, the 100 was deposited on December 16th.

25 Q Okay. So let's just assume that we're only dealing

1 with 107,000. At 20 percent, that should be over \$40,000,  
2 right?

3 A Well, that would be 20,000.

4 Q \$20,000, excuse me. So do you know why this account  
5 paid less in profits than the -- what you anticipated it  
6 would?

7 A Well, there is -- each individual trade -- reported  
8 trade on these statements is -- there's some timing  
9 differences here. So there is -- likely, the part of the  
10 spike from 200 to 204 back to 200, up to -- is because some  
11 of these profits get withdrawn in January. So it is highly  
12 likely that there is a reported profit included in the year  
13 end number that's then going to get withdrawn in January.  
14 So there's slight timing differences, but each individual  
15 transaction generated either 4 percent, 5 percent, but over  
16 a 2 month period instead of a 12 month period. So each  
17 individual trade would have reported a smaller percentage  
18 gain. But if he did -- if he reported five trades that year  
19 and they were all for 4 percent, the account generated  
20 roughly 20 percent of the --

21 THE COURT: Can I ask a question? All of these  
22 transactions are fictitious. The profits or whatever are  
23 made up, decide what the profits should be. Isn't that  
24 what's going on here? He's making up transactions.

25 MS. CHAITMAN: You've got the expert here. I'm

1 not --

2 THE COURT: I think he's -- I heard his  
3 explanation, but the answer is if it's below 22 percent,  
4 it's because that's what Madoff decided it would be. Isn't  
5 that the answer, though?

6 MS. CHAITMAN: Well, but the point is that if he  
7 was earning less than the 20 percent, then the differential  
8 between what the trustee contends he should have been  
9 earning if he had not taken the profits out would be very  
10 different.

11 THE COURT: I don't know if these expected -- where  
12 these expected rate of returns come from. The internal --  
13 it looks like an internal document.

14 MS. CHAITMAN: Right.

15 THE COURT: Is Blecker going to sue Madoff for  
16 breach of a fraudulent promise?

17 BY MS. CHAITMAN:

18 Q Now, with respect to the Blecker accounts, can you tell  
19 the Court what the gaps were in the records that you were  
20 able to review?

21 A So when I was referring to the gaps earlier, there are  
22 portfolio management reports during the microfilm timeframe  
23 like we're looking at here, where we may not have had a  
24 particular month or a particular year end portfolio  
25 management report because the microfilm is either lost,



1 damaged, or illegible. For PMT reports and spiral bound  
2 notebooks, they are limited to the document -- the data  
3 available in the debtor's books and records as of 2008. So  
4 there are handwritten spiral notebooks that we have and  
5 there are a lot more spiral notebooks that just were not  
6 maintained and did not exist in 2008. And so when I refer  
7 to gaps, I'm referring to what we don't have that were most  
8 likely maintained during the ordinary course of business.

9 Q But with respect to the various accounts that Mr.  
10 Blecker had from 1981 on, what percentage of the monthly  
11 statements were you able to review?

12 A All of them.

13 Q You reviewed all of the monthly statements for all of  
14 the accounts?

15 A For all of the Blecker accounts? Yes.

16 Q Yes. Now, you testified, I believe, that with respect  
17 to 1B022 the negative principal balance was 59,634. Do you  
18 recall that testimony?

19 A Yes.

20 Q Okay. And for what period of time was the negative  
21 principal balance 59,634?

22 A That was the ending principal balance. So that was as  
23 of the closing of the account and as -- essentially as of  
24 December 11th, 2008. That was the ending balance.

25 Q Okay. Well, so what you're saying is that Mr. Blecker

1 -- you know he started that account in 1986?

2 A Yes.

3 Q Okay. So from 1986 to 2008, you're saying he had a  
4 negative principal balance of 59,634?

5 A Correct.

6 Q Now, you observed from the records, did you not, that  
7 Mr. Blecker and his wife did not withdraw a single penny  
8 according to Madoff's statements after 1997?

9 A Correct.

10 Q So how is it possible that in the period from 1997 to  
11 2008, assuming as you testified, that Mr. Blecker put in  
12 200,000, right?

13 A Right.

14 Q And he maintained his \$200,000 investment, right?

15 A No. I mean, no -- I think that's where we might differ  
16 in the language we're using. When you say he maintained his  
17 investment of 200,000, I would agree with you that he  
18 maintained his investment as far as he understood within the  
19 Madoff fraud. But my calculation is based on cash in and  
20 cash out. So if he's generating a false profit for \$4,000  
21 and he then withdraws that \$4,000, as far as he knows, he  
22 hasn't taken his 200,000, right? He just took the profit.  
23 But if the profit was never earned, he's now taken 4,000 of  
24 his 200. Does that make sense?

25 Q Okay.

1 A So I think we're using different terminology.

2 Q Okay. And what was your calculation with respect to  
3 the joint account, which was started in 1981?

4 A So the same concept is that over time, he had made the  
5 -- we granted the initial principal credit of 42,300 and  
6 change. Then he had additional deposits along the way. And  
7 those cash deposits from his perception or from -- I don't  
8 want to say his perception -- from the reporting of the  
9 equity, and the trading, and all of the things on the  
10 customer statements as part of the fraud, all of that  
11 activity the balance that the investor was considering, he  
12 was only using that as a foundation, that every profit would  
13 go up and he was withdrawing that profit, leaving the  
14 foundation the same.

15 However, for purposes of calculating principal balance  
16 to determine the net equity, each one of those profits  
17 didn't exist. Therefore, when that profit -- supposed  
18 profit was withdrawn, it actually was withdrawing from his  
19 actual deposits. So that's the difference between the  
20 principal balance calculation and the amounts reported on  
21 the customer statements.

22 Q In the course of your work, did you interview any  
23 Madoff employees?

24 A When I first got to BLMIS in December of 2008, it was  
25 already considered a crime scene and the FBI were there. So

1 my opportunity to interview or speak with any employees was  
2 extremely limited. I had a couple of initial discussions  
3 with employees logistically, just to say where are the files  
4 maintained, where can I find customer statements. So my  
5 conversations with employees was limited to a couple of  
6 procedural type questions in December of 2008 and January of  
7 2009. Other than that, I wasn't able to speak with  
8 employees as forensic accountants would normally do.

9 Q Did you in the course of your work discover that there  
10 were instances where employees stole money from customers by  
11 taking checks?

12 A I'm not aware of that.

13 Q Well, you never were able to examine the backs of the  
14 checks that were issued prior to 1998, isn't that true?

15 A I have not reviewed the backs of checks. I believe  
16 there are some cancelled checks prior to 1998, but the  
17 majority -- the vast majority of the bank records available  
18 are from 1998 forward.

19 Q Right. And without looking at the back of a check, you  
20 wouldn't really know where it was deposited, would you?

21 A No.

22 Q And even with respect to checks after 1998, have you  
23 actually done a review to make sure that the checks were  
24 endorsed by the payees and deposited into their accounts?

25 A I haven't done that work, but the work's been done by

1 FTI.

2 Q And did they discover that there were instances where  
3 the checks were not deposited by the payees?

4 A Not that I --

5 MS. BROWN: Your Honor, I'm going to object. Ms.  
6 Callura was on the stand testifying about the cancelled  
7 checks and her work. She could have asked this question to  
8 Ms. Callura.

9 THE COURT: Well, yes. He can say he doesn't know  
10 because --

11 MS. BROWN: Okay.

12 THE COURT: -- it is a question that should have  
13 been put to Ms. Collura. She did the tracing analysis. You  
14 can answer the question, do you remember -- do you want to  
15 re-ask the question, Ms. Chaitman? We might have lost the  
16 thread.

17 BY MS. CHAITMAN:

18 Q Right. Do you have any knowledge as to whether checks  
19 after 1998 where you have possession of them show that the  
20 checks were not deposited into the payees' accounts?

21 A I'm not aware of any.

22 Q Now, I'm reading from your July 14th, 2015 report at 4,  
23 paragraph 6. You said --

24 THE COURT: What exhibit is that, Ms. Chaitman? In  
25 your book?

1 MS. CHAITMAN: You know what, let me --

2 THE COURT: I'm looking at the table of contents.

3 MS. CHAITMAN: I didn't mark that as an exhibit.

4 So let me --

5 THE COURT: Okay. It's not in your book? Go ahead  
6 and ask the question. I just thought it would be easier.

7 MS. CHAITMAN: Okay.

8 BY MS. CHAITMAN:

9 Q The subset -- I'm quoting from you, "The subset of  
10 withdrawal transactions, collectively referred to herein as  
11 PW transactions, is comprised of: one, transactions referred  
12 to as profit withdrawals for which the transaction code  
13 according to the customer statement is PW; and two,  
14 transactions reflected on the customer statements with a  
15 transaction code other than PW (CW or JRNL)." Do you recall  
16 that that's what you wrote in your report?

17 A Yes, I do.

18 Q Okay. Now, what was the period that the PW appeared on  
19 the statements?

20 A There were PW transactions from the early 1980's  
21 through 2008.

22 Q Now, even during the period following 1998 when you had  
23 the bank records, were there instances where you found that  
24 checks were not deposited by the customers?

25 A I did not do that testing.

1 Q You did an analysis of the profit withdrawal  
2 transactions, didn't you?

3 A Yes.

4 Q And you did a supplemental analysis of the profit  
5 withdrawal transactions, didn't you?

6 A Yes.

7 Q Okay. And in that supplemental withdrawal in paragraph  
8 16, note 5, didn't you determine that 800 PW notations  
9 represented checks to customers that were not cashed?

10 A I know you're taking a section of my report. I think I  
11 might know what you're referring to, but it would be --

12 THE COURT: Do you want to see the --

13 THE WITNESS: That would be helpful.

14 THE COURT: -- supplement report. Anybody have it  
15 to show him?

16 MS. BROWN: Where are you on? Which page?

17 MS. CHAITMAN: It's the supplemental report. It's  
18 paragraph 16, note 5.

19 THE COURT: Is there an extra copy?

20 MS. BROWN: I have copies for everyone.

21 (Indiscernible).

22 THE COURT: Yes, thank you.

23 MS. BROWN: You're welcome.

24 BY MS. CHAITMAN:

25 Q Paragraph 16, note 5. Would you read that for the

1 Court?

2 A The note?

3 Q Paragraph 15, note 5.

4 A Read the footnote? Okay. "These transactions exclude  
5 approximately 800 line items corresponding to certain  
6 initially reported transactions that were coded as PW  
7 transactions that were subsequently cancelled on the  
8 customer statements."

9 Q And would you read note 4?

10 A "The six individual transactions that were included in  
11 the population of PW transactions as set forth in Exhibit 2  
12 to the PW report, have since been eliminated because: A)  
13 four transactions (related to BLMIS accounts 1N008 and  
14 1FN016) were related to purported tax obligations and were  
15 withheld by BLMIS and paid to the IRS on the customer's  
16 behalf; and B) two transactions (one in BLMIS account 1H0022  
17 and one in BLMIS account 1W0064) were cancelled in the  
18 months following the transactions as reflected on the  
19 customer statements. In addition, there were updates to the  
20 transaction date, amount, type, and description for 96 PW  
21 transactions. See Exhibit 3 for the listing of all PW  
22 transaction and the specific updates to these PW  
23 transactions."

24 MS. CHAITMAN: Okay. I have no further questions.

25 THE COURT: Any redirect?



1 MS. BROWN: No, Your Honor.

2 THE COURT: All right. Let me just make sure. Are  
3 there any other participating claimants here not represented  
4 by Ms. Chaitman that want to question the witness? Hearing  
5 no response, you can step down.

6 Do you have any further live witnesses?

7 MS. BROWN: No, Your Honor, that -- we have no more  
8 witnesses.

9 THE COURT: Okay. And, Ms. Chaitman, do you have  
10 any live witnesses?

11 MS. CHAITMAN: No, not here.

12 THE COURT: All right. I haven't reviewed all of  
13 the deposition designations and there's no point -- and it's  
14 also quarter to 5:00. There's no point in having an  
15 argument based on those designations. What I suggest we do  
16 is the trustee can submit proposed findings of fact and  
17 conclusions of law, by paragraph with citations to the  
18 record supporting each requested finding.

19 I'm not sure that there's many legal issues in this  
20 particular matter, but you can submit a memorandum to the  
21 extent necessary for issues of law. How long can -- how  
22 long will it be before you can submit that?

23 MS. BROWN: Your Honor, could we have two weeks?

24 THE COURT: Two weeks. Okay. And then what I'll  
25 ask you to do, Ms. Chaitman, is then you'll have two weeks

1 to submit any counter-proposed -- to take issue with their  
2 findings of fact and conclusions of law so you can show me  
3 other parts of the record that support or undercut their  
4 proposed findings and additional findings that you want me  
5 to make, again with specific citations to the record that  
6 support those findings.

7 MS. CHAITMAN: Okay. Your Honor, I'm going on a  
8 three week vacation starting February 18th and can I -- I  
9 don't mind giving the trustee more time, but I'd just like  
10 to be able to do this when I come back from vacation.

11 MS. BROWN: Your Honor, we'll take more time if  
12 that's okay.

13 THE COURT: The case has been going on for nine  
14 years now -- ten years --

15 MS. BROWN: Why stop now? We're having so much  
16 fun.

17 THE COURT: All right. So when are you going to be  
18 back?

19 MS. CHAITMAN: I'm going to be back on March 8th.

20 THE COURT: All right. So I mean, I guess they can  
21 have until March 7th to put in --

22 MS. CHAITMAN: Yeah. I mean, that's --

23 THE COURT: -- whatever it is you're going to put  
24 in.

25 MS. BROWN: That would work for us, Your Honor.

1 THE COURT: And then you'll have two weeks. Please  
2 don't come back and say they had a month, now you want a  
3 month. This is being done --

4 MS. CHAITMAN: No, no, no.

5 THE COURT: -- to accommodate you. All right, so  
6 the trustee's -- this -- we'll call it the Blecker  
7 claimant's response since it's really a dual --

8 MS. CHAITMAN: It's really the Blecker response.  
9 Yeah.

10 THE COURT: Well, so that's March 22. If I need  
11 oral argument or I think I need it, then I'll schedule oral  
12 argument. Otherwise, the matter will just be submitted at  
13 that point. Okay?

14 MS. BROWN: Thank you, Your Honor.

15 THE COURT: Okay. Let me give you back some of  
16 this stuff you gave me. Thank you very much. This was a  
17 very well tried case, both sides.

18 MS. CHAITMAN: You have my binder.

19 THE COURT: Yeah, this I'll hold -- you know what,  
20 if you could give me -- what exhibits are coming in? We  
21 never really talked about that.

22 MS. BROWN: I was just thinking of that.

23 THE COURT: Yeah.

24 MS. BROWN: Do you want us to outline the exhibits  
25 that we'd like to move in in our proposed findings of fact

1 and conclusions of law with --

2 THE COURT: Then I have to have another argument  
3 about -- why didn't we deal with that before?

4 MS. BROWN: I'm sorry?

5 THE COURT: What exhibits -- have you -- the two of  
6 you discussed the proposed exhibits and whether there are  
7 objections to the exhibits? I guess I can deal with that  
8 before February 18th, right?

9 MS. CHAITMAN: You know what, there were thousands  
10 of exhibits that actually didn't go in. So what I would --

11 THE COURT: I don't know what they want to put in.

12 MS. CHAITMAN: Right, so --

13 THE COURT: Nothing has gone in yet.

14 MS. CHAITMAN: Yeah, what I would suggest if you  
15 don't mind, Your Honor, is that Seanna just give me a list  
16 of what she proposes to put in. I'll give her a list. And  
17 then -- I mean, that's --

18 THE COURT: Okay. But let's deal with that before  
19 the proposed findings and conclusions. It seems to be that  
20 that -- that can get done quickly and this way you're not  
21 basing any proposed findings on evidence that's not going to  
22 come in.

23 MS. BROWN: Do you want me to -- if you give us 10  
24 minutes, I can tell you which evidence we'd like to put in  
25 now.

1 THE COURT: Well, we can try it that way.

2 MS. CHAITMAN: Can we -- if you don't mind, can we  
3 do it by next Wednesday or so. If you just -- I'd just like  
4 to review everything.

5 MS. BROWN: I guess I'm just confused, Your Honor,  
6 if there's objections are we coming back or --

7 THE COURT: Well, what we can do is you can each  
8 exchange your proposed exhibits and today's Friday. We can  
9 do it by one day next week.

10 MS. CHAITMAN: Yes.

11 THE COURT: Then you can submit, you know, which  
12 we'd normally do in a pretrial order, you can submit a list  
13 of objections and the basis of the objections and then, you  
14 know, I can deal with them.

15 MS. CHAITMAN: I'd just like to be able to review  
16 the transcript and get a complete list.

17 THE COURT: Why don't you exchange the lists of  
18 those exhibits that you want to offer into evidence, okay?

19 MS. BROWN: Okay.

20 THE COURT: And let's say you do that -- can you do  
21 it by next Wednesday?

22 MS. BROWN: Yes.

23 THE COURT: Ms. Chaitman?

24 MS. CHAITMAN: Sure.

25 THE COURT: Simultaneous exchange by the close of

1 business Wednesday. So that's the 24th. And how long do  
2 you need for objections?

3 MS. BROWN: A week.

4 THE COURT: Okay. And then you can submit your  
5 objections but I want to know the basis of the objection.  
6 You can do it in a box. So you can have the exhibit number.  
7 I have all of your exhibits on disc -- proposed exhibits on  
8 disc. And I have you on looseleaf. Objections by January  
9 31st. Then we'll schedule a hearing before you go away and  
10 we'll deal with the --

11 MS. CHAITMAN: Okay.

12 THE COURT: -- objections. Actually, that plays  
13 better into the timing anyway.

14 MS. BROWN: Okay.

15 THE COURT: All right?

16 MS. BROWN: Thank you, Your Honor.

17 MS. CHAITMAN: Thank you, Judge.

18 THE COURT: Thank you. Okay. Thanks very much.

19 (Chorus of thank you)

20 (Whereupon, these proceedings were concluded at 4:50  
21 p.m.)

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C E R T I F I C A T I O N

We, Dawn South, Sherri Breach, Tracey Williams & Jamie  
Gallagher, certify that the foregoing transcript is a true  
and accurate record of the proceedings.

Dawn South

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